

**United States
Department of
Agriculture**

Office of
Procurement and
Property Management

USDA REAL PROPERTY LEASING HANDBOOK

Effective December 1, 2010

USDA REAL PROPERTY LEASING HANDBOOK

TABLE OF CONTENTS

Table of Contents	Page
FOREWORD	iv
CHAPTER 1 OVERVIEW	1
1. PURPOSE	1
2. SPECIAL INSTRUCTIONS/CANCELLATIONS	1
3. POLICY	1
4. RESPONSIBILITIES	1
5. BACKGROUND AND AUTHORITY	2
6. ABBREVIATIONS	2
7. DEFINITIONS	2
8. STATUTORY AND REGULATORY REQUIREMENTS	3
CHAPTER 2 PLANNING FOR ACQUISITION	5
1. AGENCY REQUIREMENTS	5
2. PLANNED ACQUISITION OF SPACE	8
3. JUSTIFICATIONS	9
4. APPROVAL LEVELS OF JUSTIFICATION	10
5. ACQUISITION PLAN	10
CHAPTER 3 LEASING PROCEDURES	12
1. MARKET SURVEY	12
2. ANALYSIS OF FINDINGS	17
CHAPTER 4 SOLICITATION FOR OFFERS	19
1. MINIMUM REQUIREMENTS	19

2. SFO RESPONSE EVALUATIONS	22
3. CHANGES PRIOR TO AWARD	23
CHAPTER 5 EVALUATION OF OFFERS	25
1. PREPARATION OF EVALUATION OF OFFERS	25
2. ANSI/BOMA/USABLE MEASUREMENT	25
3. ABSTRACT OF OFFERS (WITHOUT PRESENT VALUE ANALYSIS)	26
4. ABSTRACT OF OFFERS (USING PVA)	32
5. PRESENT VALUE ANALYSIS MODEL	33
6. TOTAL COST TO GOVERNMENT	33
7. SEISMIC SAFETY	34
8. SUSTAINABLE DESIGN	34
9. ACCESSIBILITY	35
10. . SECURITY REQUIREMENTS	36
11. AWARD FACTORS	39
12. NON-RESPONSIVE OFFERS	39
CHAPTER 6 NEGOTIATIONS	41
1. ESTABLISH NEGOTIATION OBJECTIVES	41
2. NEGOTIATION SESSION	42
3. COMPLETE NEGOTIATIONS	42
4. DOCUMENTATION	42
5. APPRAISAL	43
CHAPTER 7 AWARD	46
1. LAYOUTS	46
2. CONTRACT CLEARANCE THRESHOLDS	46
3. AWARD PROCESS	47
4. PREPARATION OF CONTRACT	47
5. PROTESTS TO THE GOVERNMENT ACCOUNTABILITY OFFICE (GAO)	47
CHAPTER 8 PROCEDURES AFTER LEASE IS EXECUTED	50

1. DESIGN INTENT	50
2. ALTERATIONS AND GENERAL ACCEPTANCE	51
3. ACCEPTANCE DATE	51
4. PAYMENT	52
5. ACCEPTANCE INSPECTION	53
6. DEFICIENCY LIST	53
7. MISTAKES AFTER AWARD	53
8. POST AWARD PUBLICIZING	54
9. MOVE-IN	54
CHAPTER 9 SPECIAL PROCEDURES FOR CONTINUED OCCUPANCY	56
1. RENEWAL OPTIONS	56
2. SUCCEEDING LEASES	56
3. EXPANSION SPACE	58
4. SUPERSEDING LEASES	59
5. LEASE EXTENSIONS	59
6. SPACE FOR SHORT-TERM USE	59
7. LEASE ALTERATIONS	60
8. TERMINATION	61
9. RESTORATION	62
10. HOLDOVER TENANCY	62
CHAPTER 10 LEASE ADMINISTRATION	66
1. CHANGE OF OWNERSHIP	66
2. RENTAL DEDUCTIONS	67
4. DISPUTES	69
CHAPTER 11 SIMPLIFIED LEASE ACQUISITION PROCEDURES	71
1. BACKGROUND	71
2. APPLICATION FOR THE SLAT	71
FIGURE 1 SAMPLE NEEDS ANALYSIS WORKSHEET	74

FIGURE 2	SAMPLE SFO MATRIX	77
FIGURE 3	SAMPLE SFO FINANCIAL MATRIX	78
FIGURE 4	SAMPLE OPERATING EXPENSE AND REAL ESTATE TAX INDEX	79
FIGURE 5	SAMPLE TENANTS QUICK CHECKLIST OF LEASE POINTS	81
FIGURE 6	SAMPLE MOVE-IN TIMELINES AND CHECKLISTS	88
FIGURE 7	SAMPLE LEASE ASSUMPTION AGREEMENT	94
FIGURE 8	SAMPLE DEDUCTION LETTER	98
APPENDIX A	Abbreviations	A-1
APPENDIX B	Definitions	B-1
APPENDIX C	Statutory and Regulatory Requirements	C-1
APPENDIX D	Cost of Escalation When PVA Is Not Used	D-1
APPENDIX E	Revised Price Negotiation Objectives	E-1

FOREWORD

This Handbook sets forth the policy and procedures for planning, acquiring, and managing leasehold workspace to meet the United States Department of Agriculture's (USDA) needs. USDA hereafter will be referred to as the Department. The procedures contained in this Handbook are applicable to all leasehold acquisition contracts that are executed pursuant to the [40 U.S.C. 490\(h\)\(1\), Federal Property and Administrative Services Act of 1949](#), as amended.

This Handbook is not intended to supersede Agriculture Property Management Regulations (AGPMR), Departmental Regulations (DR), or the Federal Management Regulations (FMR). Users of this Handbook are reminded that there is no adequate substitute for actual statutes and regulations. This Handbook is intended to be used as an introduction to the extensive and complex statutory and regulatory policies for Federal government real estate acquisitions. Agencies must continue to monitor current statutes, regulations, and Executive Orders and refer to them to gain a full understanding of their obligations and responsibilities. Furthermore, agencies must consult with the Office of the General Counsel when issues regarding these statutes and regulation arise.

A leasing action begins with the analysis of the space request and continues through the acquisition process until award. The Real Property Leasing Officer (RPLO) should conduct a thorough analysis at the beginning of the process thereby resulting in a smoother and more successful acquisition. In the case of expiring leases, the RPLO should begin preparing renewal requirements 18 to 24 months before expiration of the lease.

The acquisition of leasehold interests in real property is unique. There are no two properties alike so the recommended method of contracting is through procedures that are different from those when contracting for supplies and services. An overview of the leasing process begins with the determination of the agency's space requirement. The Real Property Leasing Officer (RPLO) then prepares the [Solicitation for Offers \(SFO\)](#), which is the Government's requirements package. The SFO instructs potential offerors where and when to submit offers.

A market survey is conducted by identifying locations through advertising, contacts with local real estate companies and other related business entities. During the market survey, the RPLO will survey all buildings and sites within the delineated area that either meet the Government's requirements or have the potential to meet the Government's requirements. The RPLO then meets with the prospective lessors and issues the SFO package. Submitted offers are then evaluated by the RPLO. Offers will be evaluated on the lowest annual price per square foot and other award factors as stated in the SFO.

The requirement for an appraisal to support negotiated contract rentals for leases has been eliminated. GSA determined that acquiring an appraisal is a time consuming and expensive process, and is not a common industry practice for lease acquisition. Price can be based on market survey information gathered during the acquisition process. Under certain circumstances, the [Truth in Negotiating Act \(TINA\)](#) may cause the RPLO to perform an appraisal. TINA requires offerors to submit cost or pricing data when adequate price competition does not exist for leases having a total contract value of greater than \$650,000. In such circumstances, the market price exemption from this requirement may be applied based on market survey

information or an appraisal. When the cost or pricing data provisions of TINA are triggered and no market information is available, an appraisal should be prepared instead of requiring the lessor to submit costs and pricing data.

Negotiations will be conducted with all offerors whose space meets, or is capable of meeting, the Government's minimum requirements. Negotiations are terminated when the RPLO is convinced that the most favorable rental rate, along with other award factors, has been obtained. An award is made to the offeror that has submitted an offer that is most advantageous to the Government's requirements as stated in the SFO, price and other factors considered. Prior to occupancy, the RPLO or agency representative will inspect the space to ensure that it meets the requirements of the lease contract. A lease commencement date is based on the results of an inspection.

The Government-wide authority for leasing real property is found in Section 210(h)(1) of the [Federal Property Administrative Service Act](#), as amended. An extensive list of Public Laws, Executive Orders (EO), Code of Federal Regulations (CFR) and Agency Regulations can be found in [Appendix C – Statutory and Regulatory Requirements](#). The Administrator of the General Services Administration (GSA) delegates leasing authority to the Secretary of Agriculture, including the authority to enter into leases with firm terms not to exceed 20 years, and to liquidate the obligations out of annual appropriations.

The GSA modified leasehold acquisition authority in 2007 and published [FMR Bulletin 2008-B1](#) to address programmatic deficiencies identified by audits conducted by Government Accountability Office (GAO) and the GSA Inspector General. [FMR Bulletin 2008B-1](#) requires agencies using the delegation authority to demonstrate a) their capacity to support the delegation, b) that the granting of the request is in the best interest of the Government, and c) how the agency's use of the delegated authority is cost-effective for the Government. The delegation change also limits use of the delegation to lease transactions of less than 20,000 rentable square feet of general purpose office space. This bulletin establishes new requirements for agencies requesting authorization to use the General Purpose and Special Purpose delegation authority and addresses requirements for use of the Categorical space delegation provided in 41 CFR Part 102-73.

GSA now retains authority to lease all general office space in excess of 19,999 rentable square feet (SF). In addition, Special Purpose leasing delegations for 2,500 rentable square feet or more of space are covered by the requirements of [FMR Bulletin 2008-B1](#). Categorical delegations for specific types of space are not covered under this Bulletin.

NOTE: Unless otherwise noted, all references in this Handbook to square feet shall mean ANSI/BOMA Office Area square feet (ABOA). The terms ANSI/BOMA Office Area (ABOA) and usable square feet (USF) are used interchangeably throughout this Handbook and its attachments.

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U.S. DEPARTMENT OF AGRICULTURE
WASHINGTON, D.C. 20250

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CHAPTER 1

OVERVIEW

1. PURPOSE

This Handbook establishes Departmental policy and procedures for the acquisition of leasehold interests in real property when such acquisitions are executed under the authority of the [Federal Property and Administrative Services Act of 1949](#), as amended.

2. SPECIAL INSTRUCTIONS/CANCELLATIONS

This Handbook cancels and supercedes the USDA Leasing Handbook, dated September 2004. The previous Leasing Handbook is rescinded in its entirety.

3. POLICY

Real Property Leasing Officers who are warranted to acquire leasehold interest in real property must abide by the procedures prescribed in [GSAR 570.2, Acquiring Leasehold Interests in Real Property](#), and be certified under [DR 5100-002, Real Property Leasing Officer Warrant System](#).

4. RESPONSIBILITIES

Each designated Head of the Real Property Leasing Activity (HRPLA) is responsible for issuing internal guidance for real property which does not have a significant effect on lessors or prospective lessors. "Significant effect" is defined generally as something which has an effect beyond the internal operating procedures of the Leasing Activity, or has a cost or administrative impact on offers or lessors.

5. BACKGROUND AND AUTHORITY

In 1996, GSA established a leasing program that offered federal agencies the option of continuing to use GSA as their leasing agency for general purpose space or taking on that responsibility within their own agency. The program was called “Can’t Beat GSA Leasing”.

The tenets of the program still exist today and the goal remains the same: The Government must work faster, smarter, cheaper and better. However, in November 2007, GSA issued [FMR Bulletin 2008-B1, Delegation of Lease Acquisition Authority – Notification, Usage, Reporting Requirements for General Purpose, Categorical, and Special Purpose Space Delegation](#) modifying the lease delegation authority process. The Bulletin established new requirements for agencies requesting authorization to use General Purpose and Special Purpose authority. The authority was amended to limit general purpose delegations for space acquisitions up to a maximum of 19,999 rentable square feet (RSF) and for Special Purpose space actions of less than 2,500 RSF. In addition, agencies are prohibited from using the General Purpose leasing delegation to enter into a Supplemental Lease Agreement to expand the amount of space currently under lease, if such an expansion will cause the agencies to lease a total of more than 19,999 rentable square feet of General Purpose space at the leased premises.

[FMR Bulletin 2008-B1](#) allows agencies that perform functions necessary to acquire general purpose office space in privately owned buildings to do so **contingent upon request and approval from GSA**. RPLOs must contact <https://extinfportal.pbs.gsa.gov/> to request and receive delegation authority from GSA for general office space. The Department also has leasing delegation for special types of space as described in 41 CFR 102-73.170 through 102-73.225 and categorical space delegations as described in 41 CFR 102-73.155.

Prior to acquiring space, first consideration must be given to USDA owned or leased space. If space cannot be located in USDA owned or leased space inventory, or any other federally controlled space, the RPLO will contract for commercially available space. For additional information concerning the location of USDA facilities, please see [AGPMR 110-79](#), Location of USDA Facilities; and [DR 1620-002](#), USDA Space Management Policy.

6. ABBREVIATIONS

See [Appendix A](#)

7. DEFINITIONS

See [Appendix B](#)

8. STATUTORY AND REGULATORY REQUIREMENTS

All laws, Executive Orders, regulations, etc., referenced within the Handbook are listed with full http:// addresses in [Appendix C](#).

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CHAPTER 2

PLANNING FOR ACQUISITION

1. AGENCY REQUIREMENTS

Federal policy on space requirements is established by the [Federal Management Regulation \(FMR\)](#), which sets forth the methodology and criteria to determine the amount of space required to develop the basic build-out requirements for new or expansion space. Establishing the need involves identifying and describing the delineated area, personnel to be housed, furniture and equipment needs, square footage required per person and technical requirements.

When the RPLO is evaluating the sufficiency of the requirements, the RPLO must ensure that the following objectives are met: 1) does the request provide a clear statement as to what is being acquired, and 2) what is the impact on price?

The program activity will provide a request; typically a [Standard Form \(SF 81\), Request for Space](#), and attachments. Use of the SF 81 is not mandatory; any document containing the elements captured on the SF 81 is sufficient. Some agencies may develop their own Request for Space documents for agency-leased space.

All space requirements should be documented. Use of the SF 81 facilitates requirements development. In October 1996, it was determined that these forms are no longer mandatory in the formulation of a space need when making a request to GSA. However, their continued use is permissible and a recommended tool for capturing information and explaining requirements. An additional tool, the Space Requirements Questionnaire, is also available. This tool may be a useful document in assembling information on the technical aspects of the space needs.

At times, the program may describe a current situation rather than stating the actual needs. If the RPLO determines that there is an overstatement of needs, they must be examined and evaluated by the RPLO. Additional requirements will have an upwards impact on costs.

Agency space requirements must be thoroughly reviewed before proceeding with a lease acquisition. It is important for the RPLO to perform an evaluation of the current space situation, to identify any problems and to determine short-term and long-term needs. At the outset, the RPLO and any other appropriate personnel must identify and approve all criteria governing an ultimate decision to stay or relocate. The review should include the following:

- a. Type and Amount of Space. When planning a space action, [DR 1620-002, USDA Space Management Policy](#), should be used. This policy is to be implemented whenever entering into a new or expanded GSA assignment; new and superseding USDA lease;

space reduction actions; or other space actions resulting in significant space changes in owned and leased space. RPLOs **cannot** exceed the GSA mandated space requirement of 19,999 ANSI-BOMA Office Area (ABOA) SF for general office space. Furthermore, RPLOs cannot expand the ABOA SF if the existing total ABOA exceeds 19,999 ABOA SF.

- b. Location. Leasing authority for agencies within the Department is generally restricted to areas outside of major urban centers (see [DR 1620-002, USDA Space Management Policy](#)). There are three exceptions:
 - (1) Leases for county level offices of the Natural Resources Conservation Service, Farm Service Agency and/or, Rural Development and Forest Service District Ranger stations.
 - (2) Leases for which there is an approved specific delegation from the Administrator, GSA.
 - (3) Leases for special purpose space as described in [FMR102-73, Delegation of Leasing Authority](#), lease terms for cotton-classing laboratories are allowed to exceed five

years, as set forth in the [2008 Farm Bill](#), including all options. A 5-year lease term applies to office space when it is required to be located in or adjacent to stockyards, produce markets, produce terminals, airports and other ports.

c. Delineated Area

- (1) Size. Program requirements ultimately govern the location of required space and may limit the area of consideration. However, the limitation on the area must be fully justified on the basis of mission requirements. Court decisions and legislation have reduced the flexibility of agencies in fixing boundaries in locating new facilities. To avoid conflict with statutory requirements and to avert protests from bidders, consideration must be consistent with mission requirements, conform to federal location policy and provide adequate competition. To allow for adequate competition, the area should not be too restrictive. Any site within the 100-year floodplain should be excluded from the delineated area.
- (2) Boundaries. In the determination of the geographic location to house a Federal activity, a number of statutes, orders and regulations must be considered. Specifically, under the [Rural Development Act of 1972](#), agencies are required to give first consideration to the location of new offices and other facilities in rural areas. If an agency concludes that a particular activity must be located in an urban area, then the requirements of [EO 12072, Federal Space Management](#), must be applied. The EO mandates that in urban areas first consideration be given to locating Federal facilities in the Central Business Area (CBA) and adjacent areas of similar character. Regulations governing the application of [EO 12072](#) to specific space actions are contained in [AGPMR 110-83.65, Location of Space](#).

Additional information identifying a delineated area can also be found in the [GSA Customer Guide to Real Property](#). GSA is given final approval authority for delineated areas when GSA is handling the acquisition for the agency. USDA agencies using GSA delegated leasing authority must adhere to the GSA location policy, with the following qualification: On October 25, 1979, GSA and USDA entered into a [Memorandum of Understanding \(MOU\) “Concerning the Location of Federal Facilities”](#). In this MOU the agencies agree that in certain instances, particularly at the local level, USDA’s program and mission requirements may not function suitably in the CBA. Therefore, the requirement to locate such functions in the CBA may be waived based upon USDA making a compelling and fully substantiated case that occupying space outside the CBA is necessary for the effective delivery of agency programs and services.

In addition to the above, other factors that must be considered before a final decision is made regarding the delineated areas are:

- (a) The availability of existing or planned Government controlled space. A decision not to use such space must be fully justified to GSA.

- (b) The existence of historic buildings in the general area. Use of such buildings is prescribed in the [Public Buildings Cooperative Use Act of 1976](#) and [EO 13006](#).
- (c) Language. In describing the boundaries of the delineated area, use specific terms to avoid misunderstanding or confusion. Make it clear that the needed space must be “within the fronting of the area bounded by ... (list streets or other features)”. If the feature involved is something other than a street, such as a river, freeway, etc., the description should continue similar to “...and the northerly edge of Interstate 80 on the south”.

2. PLANNED ACQUISITION OF SPACE

- a. Federally Controlled. The agency must inquire into the availability of vacant, suitable, Government controlled space as required by [FMR 102-73.60, Real Estate Acquisition](#). When Government controlled space is available but is not suitable for the agency’s program mission, the agency must receive written approval from the GSA Assistant Regional Administrator to move forward with the acquisition. In order to obtain this approval, agencies must demonstrate why the available space is not suitable for the activity to be housed.

Agencies must also ascertain collocation opportunities with other agencies when contemplating relocation as per [Departmental Regulation 1620-002, USDA Space Management Policy](#).

- b. Competition in Contracting Act. Agencies must comply with the requirements of the [Competition in Contracting Act \(CICA\)](#). All new leasehold acquisitions, including succeeding and superseding leases and renewal options, are subject to the requirements of the Act.
- c. Full and Open Competition. Full and open competition means that all responsible sources are permitted to compete. CICA requires that there be full and open competition. A market survey should be conducted to determine possible sources for fulfilling space requirements.
- d. Other Than Full and Open Competition. If after review of the agency’s space requirements and/or the market survey indicates that full and open competition is not possible, then it is permissible to use other than full and open competition procedures to fulfill the space requirements. This process requires preparing a formal justification and requesting the required approval for other than full and open competitive actions. This action is often referred to as an Other than Full and Open (OTFO) competition.
- e. Exceptions for Use of Full and Open Competition. The agency must cite one of the following exceptions for the justification of other than full and open competition:

i. [41 U.S.C. 253, Competition Requirements](#)

1. (c)(1) Only responsible source*;
2. (c)(2) Unusual and compelling urgency*;
3. (c)(3) Industrial mobilization; experimental, developmental or research work
4. (c)(4) International agreement;
5. (c)(5) Authorized or required by statute;
6. (c)(6) National security; and/or
7. (c)(7) Public interest.

* Exceptions most frequently used in the leasing process (see [GSAR 570.104, Competition](#) and [FAR 6.302, Circumstances Permitting Other Than Full and Open Competition](#)).

(a) Examples of supportable justifications for OTFO competition for new lease acquisitions are:

- (1) Location specific due to program mission, e.g., border stations, airports, grain elevators (Cite (c)(1)).
- (2) Only one location available supported by market survey and/or advertising (Cite (c)(1)).
- (3) Disaster or emergency (Cite (c)(2)).
- (4) Time critical so that the Government would be injured seriously by the delay (Cite (c)(2)).

3. JUSTIFICATIONS

A justification generally should include:

- a. Supporting data, market survey and program mission as it relates to space,
- b. Program certification that requirements are accurate and complete, and
- c. RPLO certification that information is accurate and complete.

4. APPROVAL LEVELS OF JUSTIFICATION

A justification for OTFO competition must be approved in writing at the appropriate approval level. The total value of the lease contract, including any options, establishes the contract approval thresholds.

If the total value of the lease contract is less than \$100,000, approval is not needed. However, written justification for lease contracts less than \$100,000 must be included in the lease file but contract approval is not required.

If the total contract value of the lease contract is equal to or greater than \$100,000 but less than \$500,000, approval one level above the RPLO is required, most probably this would be the Contracting Activity Competition Advocate. This procurement is to be signed by a Level I RPLO.

If the total contract value of the lease contract is equal to or greater than \$500,000 but less than \$10,000,000, then approval by then two levels above the RPLO is required, most probably this the HRPLA. This procurement is to be signed by a Level II RPLO.

If the total value of the lease contract value of the lease contract is equal to or greater than \$10,000,000 but less than \$50,000,000, three levels above the RPLO is required. This procurement is to be conducted by an RPLO with an unlimited warrant.

The written approval of the justification by the authorized person must be obtained before the RPLO can begin negotiations. This approval must be retained in the lease contract file.

5. ACQUISITION PLAN

All proposed acquisition shall have an [Acquisition Plan](#). The RPLO shall be responsible for preparing the plan. All plans shall be reviewed and approved at least one level above the individual writing the plan.

In cases of unusual or compelling urgency, a written plan may be waived if the preparation of the plan prior to award would unreasonably delay the acquisition. Document an oral plan and complete the acquisition plan after the award.

Acquisition plans for sole source competitions on must be coordinated and concurred with by the agency's competition advocate.

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CHAPTER 3

LEASING PROCEDURES

1. MARKET SURVEY

The [market survey](#) is a tool that allows the RPLO to make intelligent and effective pricing decisions. The RPLO must obtain information concerning the space to be leased, including information from the industry and specific factors influencing the particular leasing action. Thus, the market survey is the most critical step in the acquisition process because it allows the RPLO to identify all possible blocks of space which meet, or are capable of meeting, the Government's minimum requirements. This is where the RPLO becomes familiar with the marketplace and gathers data for negotiation strategies, as well as the development of the SFO. The RPLO determines which proposed properties meet the requirements and the properties that may be acceptable to the client. The information gathered must thoroughly document the availability of space, quality of space, services offered, rental rates and location. A poor market survey positions the RPLO at a disadvantage and increases the difficulties in the leasing process.

To perform and complete the market survey, the RPLO must gather specific space information. Fact sheets, photos and floor plans of each available space alternative need to be requested from the landlord of each building containing suitable space. Often the real estate broker representing the landlord(s) will provide this information. This should be done by phone, email or fax. A record of this request is preferred for the file.

The RPLO should consider the following needs when gathering options for space:

- a. Existing, recently completed or renovated office space
- b. Buildings under construction
- c. Leases expiring in the short or near term
- d. Sublease space

The fact sheets received from the building landlord/broker should cover the following initial screening criteria needed for evaluation:

- a. Photo of the building
- b. Usable and rentable square feet

- c. Number of floors and square feet per floor
- d. Year built
- e. Owner
- f. Contiguous space available
- g. Core factors
- h. Rental rates and terms
- i. Location
- j. Operating expenses
- k. Escalations and rent increases landlord is seeking
- l. Property taxes
- m. Accessibility, including Architectural Barrier Act Accessibility Standards (ABAAS)
- n. Parking availability and cost
- o. Building systems (elevators, HVAC, mechanical systems, security)
- p. Entitlements (zoning, floor area ratio, height limitation)

Once information is received from each landlord, the RPLO must compile it in the form of an actual Market Survey document. At a minimum, this document should contain a map of the area locating each space option and a page of information received from each landlord.

When conducting a market survey:

- a. Identify Potential Locations. The first step is to identify as many potential locations as possible. This can be done by:
 - (1) Advertisements in the local newspapers;
 - (2) Consultations with real estate agents, appraisers, owners, real estate contractors, etc.;
 - (3) Driving or walking the delineated area, noting signs of vacant buildings or lots, construction sites, etc. Inspect any buildings to ensure that they contain adequate facilities for Government requirements;
 - (4) Contacting local officials; and/or

(5) Viewing Multiple Listing Services (MLS) or other databases on commercial space.

NOTE: In the past, market surveys required an on-site inspection of available properties. This is no longer necessary due to the abundance of detailed information available. Nevertheless, after initial offers, but before the evaluation of best and final offers (BAFO), all properties in consideration must be inspected if the Government has not previously inspected them.

When conducting market surveys, it is important to note that the RPLO **should not conduct any negotiations during this process.** The RPLO can point out defects with the property or allow the potential offeror to state the asking price, but the RPLO is not to conduct negotiations. Each potential offeror should be advised that the market survey does not constitute the issuance of an SFO. However, an SFO will be sent to them if the space meets the minimum requirements.

- b. Advertising. There are two types of advertisements. One is the Sources Sought advertisement where the Government is seeking expression of interest from targeted potential offerors. The other type is a notice that an SFO is available to the general public and the Government is soliciting offers for space to meet its needs.

Requirements for lease space will be stated in the SFO in approximate RSF to yield space within ANSI/BOMI SF range and is referred to as office area square feet (OASF). The square footage in the advertisement will be stated in RSF and be based upon the agency's USF. Measurement is very important because space offerings will be evaluated and payments of rent made on the basis of dollars of rent per OASF as determined by the SFO. The SFO requirement for leased rentable space is the area for which a tenant is charged rent.

Rentable space is determined by the building owner, and may vary by local real estate markets or by building within the same market. It generally includes a share of the building support/common areas such as elevators, lobbies, building corridors and restrooms. It may vary from city to city and buildings within the same city. Vertical building penetrations, such as stairs and elevator shafts and their enclosing walls, are generally excluded. Offerors must demonstrate that the space offered will yield square footage within the stated ANSI/BOMA usable range.

All advertisements for space must be evaluated on an equal basis. The RPLO should obtain information about the estimated cost of the space through newspaper and on-line resources such as [CoStar](#) or [LoopNet](#). Typically, the cost is stated on a cost per square foot. Advertising is required for:

- (1) Leases over 10,000 SF.
- (2) Lease construction projects on pre-selected sites (a 15 day notice in [FedBizOpps](#) or the local newspaper prior to issuing the SFO is required).

- (3) If the space request does not exceed 10,000 SF, advertising is discretionary based on whether advertising would increase competition.

All lease awards where the contract is worth more than \$25,000 must be synopsisized on [FebBizOpps](#) after award.

- c. Survey of Existing Agency Occupied Space. When applicable, a walk-through of the existing agency occupied space should be conducted to:
 - (1) Understand their operations and mission;
 - (2) Look for special alterations that may be needed;
 - (3) Check layout; and,
 - (4) Ask about any problems to be avoided in replacement space.
- d. Tools for Inspection. When inspecting buildings with owners or agents, the RPLO should have available:
 - (1) Camera to photograph buildings.
 - (2) Tape measure to get approximate measurements.
 - (3) Local street map to identify subject property within the delineated area.
 - (4) General agency/SFO requirements; [GSA Forms 3516](#), [3517](#), and [3518](#); building accessibility requirements; and fire and life safety specifications. The RPLO should determine if the building can or is capable of meeting fire and life safety requirements, seismic requirements, sustainability requirements, and security requirements, as well as accessibility requirements.

With a manageable number of selected candidate options, the RPLO is ready to proceed to creating and sending out a SFO as described in the next section.
- e. Polychlorinated Biphenyls (PCBs)/Asbestos. The RPLO is to ask the building manager or owner if the building contains asbestos and/or equipment containing PCBs.
 - (1) Asbestos – If present, certain asbestos material must be removed by the successful offeror prior to occupancy.
 - (2) PCBs – Potential lessors must certify the presence or absence of PCB transformers and other equipment and any possibility of leakage.
- f. Historic Preference.

- (1) If the space required is more than 10,000 SF, copies of the advertisement must be sent to the [Advisory Council on Historic Preservation](#), located at 1100 Pennsylvania Avenue, NW, Washington, DC 20004-2590. The State Historic Preservation Officer can be found on the day the advertisement is placed at <http://www.achp.gov/shpo.html>.
 - (2) Advance notice to the Advisory Council on Historic Preservation is not required for historic property leases under 10,000 SF, as mentioned earlier in this text. Preference should be given to historic buildings capable of meeting the Government's requirements, and when the cost to lease the building is not more than 10 percent higher than the lowest acceptable.
 - (3) The Historic Preservation Officer should respond prior to the RPLO's performance of the market survey. However, if this does not occur, the RPLO is still required to identify any historic buildings capable of meeting agency needs during the market survey.
 - (4) The Federal Government has undertaken various efforts to revitalize our central cities, which have historically served as the centers for growth and commerce in our metropolitan areas. When operationally appropriate and economically prudent, federal agencies shall give first consideration to historic properties within historic districts when locating federal facilities (see [EO 13006, Locating Federal Facilities on Historic Properties](#)).
 - (5) GSA Historic Property Leasing Price Preference: Implementation includes a standard location clause for inclusion in all site acquisition solicitations and a "price preference" (permitted additional cost) of 10 percent and 2.5 percent, respectively, for historic buildings and undeveloped sites in historic districts in competitive site procurements. The 10 percent preference is intended to offset additional rehabilitation costs required to comply with the Secretary of Interior's Standards, Section 106 of the [National Historic Preservation Act](#). The 2.5 percent preference considers potential development constraints associated with historic district regulation, but without the interior building restrictions applied to historic buildings.
 - (6) [Real Estate Compliance Checklist](#): A tool for RPLOs to ensure and comply with specific historic property leasing laws, EOs, regulations and policies.
- g. Recording Findings on the Market Survey. The purpose of recording findings on the market survey is to document the lease file of the available space surveyed, its cost and the ability to meet the SFO requirements (see [GSA Form 3627, Market Survey](#)). It is suggested the GSA Form 3628, Lease Action Summary, not be used for a market survey. This form was designed to use for emergency acquisitions of space, and is also used to summarize the finding of the market surveys performed for the subject property. The GSA 3628 is only to be used to summarize the lease process for acquisitions under

\$100,000 net annual rent. For anything exceeding \$100,000 net annual rent, a formal Price Negotiation Memorandum (PNM) is required (see Appendix E).

This documentation can be used for OTFO competitions. Acquisitions by OTFO competition require approval by higher officials. The RPLO is to discuss with management regarding approval levels for the issuance of OTFO competitions before negotiations commence. Any exclusion of a building from competition in an acquisition involving OTFO competitions **must** be fully documented by setting forth the reasons, such as building conditions, location, accessibility of facilities, fire and life safety deficiencies, etc.

2. ANALYSIS OF FINDINGS

The SFO should allow for full and open competition in the marketplace. If the analysis of the data resulting from the market survey suggests that the standardized SFO will require modification, these changes should be made to the SFO before proceeding with the acquisition.

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CHAPTER 4

SOLICITATION FOR OFFERS

The SFO is the basis for the entire lease negotiation process. The SFO is an important document because it:

- Conveys the government’s requirements to the marketplace;
- Is the basis for which the offer is made;
- Is a framework for negotiations;
- Is the outline for evaluation and selection; and,
- Becomes part of the lease contract.

The SFO outlines all the key legal and operational provisions that form part of the lease understanding. Having well-crafted language in the SFO will expedite the process for all parties and plays a large role toward meeting USDA's facility needs.

The lease and financial items offered in the SFO will provide a standard template for the majority of the transactions contemplated by USDA. These SFO items are standard lease “benchmarks” applied in the commercial sector and are considered best practices. While most of the items in the SFO address standard lease issues like rent, escalations, operating costs and legal provisions, the SFO is a fluid document. It should contain those items established in the Needs Analysis section so as to determine potential properties that best balance mission requirements with cost effectiveness. (See [Figure 1](#)) The SFO Matrix scoring process provides a way to measure the effectiveness of each transaction when matched to the benchmark items and mission requirements. (See [Figure 2](#))

Since mission requirements are unique to each situation, SFO clauses should be added to address those parameters. By way of example, a specific requirement might dictate that the RPLO insert a build-to-suit clause into the SFO. In that case, the RPLO should consider criteria on sustainable design and development, disaster recovery needs, and energy efficiency compliance and performance. The SFO Matrix (see [Figure 2](#)) would then reflect this scoring capability.

A written [SFO](#) is required for all acquisitions.

1. MINIMUM REQUIREMENTS

Minimum Requirements for lease space will be stated in the SFO in approximate “rentable square feet” (RSF) to yield space within an American National Standards Institute/Building Owners and Managers Association (ANSI/BOMI) square foot range and is referred to as ABOA, office area square feet (OASF) or usable square feet (USF). The amount of space should be clearly stated within a minimum-maximum range.

- a. The RPLO is to provide the initial space requirements. This may include partitions, electric and telephone outlets, window coverings, painting, HVAC, etc.
- b. Special requirements are to be explained such as the need for contiguous space, first floor, parking, computer or laboratory requirements, floor load, etc. These specifications may be stated in terms of functions, performance or design requirements.
- c. The delineated area is to be described.
- d. The RPLO must detail the lease term including occupancy date.
- e. The SFO must specify a date and place for submissions of offers.
- f. The SFO must identify all factors including the price per square foot and unit costs which will be considered in awarding the lease and stating the relative importance of Government places on the award factors. It is recommended that the award factors are to be kept to a minimum. The factors are to be listed in descending order to identify importance.
- g. The fire, life safety and accessibility requirements are to be described in the SFO.
- h. [Energy Star](#) requirements are to be included in the SFO, as applicable to the particular lease acquisition, pursuant to GSA’s Realty Services Letter (RSL) number #[RSL-2010-2](#).
- i. The RPLO is to include applicable provisions and contract clauses, [GSA Form 3516, Solicitation Provisions](#), [GSA Form 3517, General Clauses](#), and [GSA Form 3518, Representations and Certifications](#) as part of the SFO. The operating cost escalator clauses are used at the discretion of the RPLO. The escalation can be applied to the operating costs, utilities and services as listed on [GSA Form 1217, Lessor’s Annual Cost Statement](#). The escalations can be tied to the Consumer Price Index (CPI).
- j. If the offeror is other than a small business entity, before being awarded a contract exceeding \$550,000 a statement will be required to demonstrate that its subcontracting plan represents a creative and innovative program with small, small disadvantaged and/or women-owned small businesses as subcontractors in the performance of the contract. Failure to submit an acceptable plan and/or correct deficiencies in a plan within the time specified by the RPLO will render the offeror ineligible for award.

USDA is committed to assuring that a maximum practicable opportunity is available to provide small business opportunities wherever possible and expects any subcontracting

plan pursuant to [FAR 52.219-9, Small Business Subcontracting Plan Outline](#), to include a Small, Small Disadvantaged or Women Owned Small Business Subcontracting Plan to reflect this commitment.

- k. Pursuant to the tenets of [EO 13423, Strengthening Federal Environmental, Energy and Transportation Management](#), energy cost savings are encouraged and/or are required. As of August 2008, buildings that are to be new construction and over 10,000 SF must be Leadership in Energy and Environmental Design (LEED) certified silver to be considered. Commercial interiors must meet LEED minimum requirements as well. A required award factor is the Promotion of Energy Efficiency and Use of Renewable Energy.
- l. Pursuant to the tenets of [EO 13514, Federal Leadership in Environmental, Energy, and Economic Performance](#), federal agencies are to increase energy efficiency, such as measuring, reporting and reducing greenhouse gases. Federal agencies are to design, construct, maintain, and operate high performance sustainable building in sustainable locations.
- m. Posting of [Rules and Regulations Governing Conduct on Federal Property](#) is a requirement. The SFO is to include a statement informing offerors that the Government must conspicuously post Rules and Regulations Governing Conduct on Federal Property at each public entrance of the leased facility occupied by the Department. This is pursuant to OPPM Memorandum, dated January 2, 2010. This notice contains an important warning prohibiting the possession of firearms or other dangerous weapons in Federal facilities. **Those possessing firearms cannot be successfully prosecuted unless this notice is clearly posted.**
- n. Davis Bacon Act Clauses - Both standard and small solicitations must include the paragraph (no. #1.15) entitled "Labor Standards" when delivery schedules of the SFO are long enough to permit satisfaction of the SFO requirements through construction or total renovation of a building.

All SFO's will advise offerors that they may be requested to provide test fit layouts for a typical floor. Test fits are valuable in determining if a particular building feature(s) may adversely impact the potential for efficient layout, making it impossible for the tenant to fit into the offered space even though it is within the usable range. Certain building features simply do not allow the tenant adequate room and circulation. Multi-story atriums or an irregularly shaped floor plan may trigger the RPLO to request a test fit. Test fits may be requested from one or all offerors. The RPLO does not have to request test fits from all offerors since building specific design features may trigger a test fit.

When the test fit determines that the offeror cannot be housed within the ANSI/BOMA SF, the offeror will have the option of increasing the square feet in the SFO. If the offer is already providing the maximum square feet and the agency's space requirement cannot be met, then the offeror should be advised that the offer is unacceptable.

If space efficiency is used as an award factor in the SFO, the RPLO should consider requiring all offerors provide test fit layouts.

2. SFO RESPONSE EVALUATIONS

The RPLO must perform a transparent and uniform analysis of Offerors' responses to the SFO to ensure compliance with existing Federal Acquisition Regulations. A sample of the 1 SFO Matrix document and Financial Matrix document are included in the figures. (See [Figure 3](#))

The analysis should consider the following:

- a. Overview of the Current Infrastructure of Each Building. The SFO elicits a thorough response from each Offeror as related to the physical condition and the capacity for each candidate building to accept USDA's requirement.

The SFO Matrix provides a scoring capability that produces a definitive score for each item addressed in the SFO. On a line by line basis, the Offeror's response should be inserted in the SFO Matrix. Each answer is quantified as to how it "measures" up to the specific requirement issued in the SFO. A grade score between 1 and 10 is placed in the grading column (1 least desirable - 10 most desirable). The second column addresses the "priority" USDA places on that particular line item or request. Least priority is graded as 1, highest priority as 10. The product of these two numbers is divided by the total number of items in the SFO Matrix, which in this Sample Matrix is 21. This number is the Scoring Number and represents the overall rating of the Offeror's Proposal. This comparison will show strengths and weaknesses of each building as it relates to agency program needs.

- b. Cost Analysis for Each Proposed Lease. The Financial Matrix is intended to take all financial data and produce an "apples to apples" financial comparison between buildings. The column left of the spreadsheet shows the input items for the comparison. Things like the base rent proposed, base rent escalator, term, square footage, Tenant Improvement allowances, parking costs, base year operating expense and their escalations over the term increases are just some of the inputs. (See [Figure 4](#))

The spreadsheet will calculate the overall cost of occupying the space for the given term in three formats:

- (1) Overall cost over the term of the lease;
- (2) Cost on a Rentable Square Foot basis averaged over the term of the lease; and
- (3) Net Present value of the lease at any particular discount rate (input).

- c. Assessment of the Landlord's Reaction to any Required Lease Language. When information for each building has been inserted, the program rolls all pertinent input data relevant final financial analysis to the first page of the report and provides an overall view of all buildings. The selection of the best "financial" offer can be easily determined from this report.

In addition to physical and financial data for each candidate building, the SFO responses will shed light on the Landlord's perspective as it relates to important lease terms. Grades based on the responses allow USDA insight into whether the Landlord is more or less accommodating to the requirement. USDA will be able to anticipate and delineate lease terms that will eventually necessitate being presented in future negotiations, and hence will start the negotiation on the offensive in contrast to a passive approach.

3. CHANGES PRIOR TO AWARD

Either before or after receipt of offers, when changes occur in the Government's requirements or a decision is to relax, increase or otherwise modify the scope of work or statement of requirement, such changes are to be issued in the same format as the original SFO. The format may be written or electronic, as an amendment to the SFO. If any change or modification to the Government's requirements is so substantial that it is outside of the scope of the SFO, the SFO should be cancelled and a new SFO must be issued.

The amendment document must reference the solicitation number, agency, and location. The change or modification of the Government's requirements must be identified in the SFO. Where possible, restate the original requirement and then describe the change, addition, or deletion.

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CHAPTER 5

EVALUATION OF OFFERS

After the market survey and the SFO have been issued and offers received, the evaluation process begins. Offers are evaluated with respect to price and other factors to determine which offer is most acceptable to the Government's requirements.

1. PREPARATION OF EVALUATION OF OFFERS

- a. Review the SFO to become reacquainted with the full requirements.
- b. Read each offer carefully.
- c. Verify that each offer is signed by an authorized party: owner(s), agent with written authority to represent the owner, a general partner of a partnership or the appropriate official of a company/corporation.
- d. Review the names to ensure that the offeror is not a Federal employee or member of Congress. If a Federal employee has an interest in the property, the RPLO needs approval from the HRPLA or designee to consider the offer. Approval will only be given if there is a compelling reason. The intent of this requirement is to avoid any conflict of interest or favoritism, or appearance thereof.

2. ANSI/BOMA/USABLE MEASUREMENT

All offers must be evaluated on an equal basis. Requirements for lease space will be stated in the SFO in approximate rentable square feet (RSF) to yield space within an ANSI/BOMA or ABOA SF, commonly referred to as usable square foot (USF) range. The SFO requirement for lease rentable space is the area for which a tenant is charged rent. It is determined by the building owner, and may vary by local real estate markets or by buildings within the same market. The rental space generally includes a share of building support/common areas. Building common areas are those areas of the building that provide services to the building tenants but are not included in the office area or store area of any specific tenant. The area may include, but is not limited to lobbies, atriums, concierge and security desks, conference rooms and lounges/vending areas.

Offerors must demonstrate that the space offered will yield square footage within the stated ANSI/BOMA/ABOA usable range. Typically the rentable square footage number will be larger than the usable number. This is due to the common area factor found in building. The common area factor (also known as the U/R ratio) is the conversion factor determined by the

building owner and applied by the owner to office area square feet to determine the rentable square feet for the offered space.

The RPLO should make a preliminary determination that each offer meets the minimum requirements of the SFO, sometimes referred to as “go/no go” requirements. If the minimum requirements appear to be met, the RPLO should review each floor plan to ensure that they show the proposed corridor patterns. The corridor patterns should be reviewed to determine if they achieve an acceptable level of safety and provide access to all essential building elements. Corridor areas that are deducted to calculate lease usable space may or may not be defined by ceiling high partitions.

After the required corridors have been determined, the plans must be measured to verify that the usable measurement submitted by the offeror is correct. The usable (USF) measurement will be used for price evaluation purposes. The RPLO should recognize that the corridor pattern may vary when the actual layouts are complete, and that this measurement is based on the best information available for evaluation purposes. Particular attention should be paid to irregularly shaped buildings or other conditions that may trigger the need to request test fit layouts.

If the usable square footage (USF) offered has been confirmed to be within the required USF range, the RPLO should calculate the price per USF. This is done by multiplying the RSF rate by RSF offered. This figure is then divided by the usable measure to arrive at a rate per USF.

Example: $10,000 \text{ RSF} \times \$15.00 \text{ per RSF} = \$150,000$
 $\$150,000 / 8,000 \text{ USF} = \18.75 USF

The price of space offered should then be evaluated on the basis of the cost per USF per annum.

$\$18.75 \text{ per USF} \times 12 \text{ months} \times 8,000 \text{ USF} = \$1,800,000 \text{ per annum}$

The usable area of the space offered is computed from the actual measurement of the offeror’s floor plan or by actual field measurements.

3. ABSTRACT OF OFFERS (WITHOUT PRESENT VALUE ANALYSIS)

The abstract of offers allows the RPLO to reduce all costs to the square foot rate, providing comparable units for evaluation of one offer to another and each offer to Government estimates. The RPLO will negotiate all items which require the lessor to submit a price quotation. When renewal options are part of the Government’s requirements and will be evaluated for the purposes of award, present value analysis (PVA) shall be used in the evaluation process. When the SFO requests alternative offers, PVA must also be used. PVA is a method of analyzing prices to account for rental payments in different amounts made at different times. Any time free rent is offered or rent is not level over the entire term; when

renewal options are offered at a different rent; or cost of some items not covered in the rent are to be paid over a different period of time, PVA is mandatory. See Provision 2.8, “Price Evaluation (Present Value),” which is in the standard SFO.

The following documentation should be collected:

- a. All correspondence;
- b. The offer itself;
- c. [GSA Form 1217, Lessor’s Annual Cost Statement](#);
- d. [GSA Form 1364, Proposal to Lease Space](#);
- e. [GSA Form 3518, Representations and Certifications](#);
- f. [GSA Form 3627, Lease Market Survey](#); and the,
- g. Floor Plan.

An [Abstract of Offers](#) should be prepared for each offer. Make specific notes about each offer regarding its acceptability, areas that need further clarification, omissions, etc. These notes will assist in the preparation for negotiation sessions, and to determine the lowest responsible offer.

The abstract of each offer may contain the following categories:

- a. Termination rights/alternative offer;
- b. Annual rental/alternative offer;
- c. Square footage offered;
- d. Initial term/alternative offer;
- e. Composite square foot rate/alternative offer;
- f. Operating cost escalator;
- g. Base cost of service (this is the per square foot negotiated, estimated cost of operating expenses, utilities and services listed on the GSA Form 1217);
- h. Services to be provided by the Government;
- i. Escalated rental increases per square foot;

- j. Renewal options;
- k. Parking;
- l. Overtime;
- m. Janitorial services;
- n. Unit prices;
- o. Cost of alterations;
- p. Other factors, e.g., moving costs, telecommunications costs; and/or,
- q. Present Value Analysis.

The resulting per square foot rate for each offer is the total overall cost to the Government.

- a. Square Footage Offered. The measured plan must be within the range specified in the SFO. For example, “a minimum of 5,000 to a maximum of 5,250 usable square feet”.

If the measurement is less than the minimum requirement, the offeror must amend the offer by adjusting the square footage to fall within the SFO range or the offer cannot be accepted.

If the measurement is greater than the maximum stated in the SFO, the offeror must also amend the offer to be within the SFO range or include the additional space in the lease at no charge to the Government. The Offeror should insert the square feet in Section II, Space Offered and Rates, of the [GSA Form 1364, Proposal to Lease Space](#).

- b. Alternate Offer. Occasionally, alternate offers are solicited to find what set of circumstances will yield the best offer to the Government. For example, a 5- year lease with no termination or cancellation right is desired. The SFO also states that an alternative offer covering a 2-year firm term with three 1-year options will be considered. Committing the Government to occupancy of a 5-year term rather than a 2-year firm term often results in a lower rate per square foot, particularly if the cost of extensive alterations can be amortized over a longer period. A longer commitment for the lessor is less risky because the lessor is assured of a guaranteed income stream for five years. Furthermore, the tenant (Government) seeks a longer term to satisfy the costs of the alterations. However, if the lessor does not want a commitment of five years, their property would not be considered for this specific solicitation.
- c. Termination Rights/Alternate Offer. Section III of the [GSA Form 1364, Proposal to Lease Space](#), provides the number of days prior written notice is to be given to the lessor before the Government may terminate the lease. It is also necessary to insert the year

during which the termination may first occur. Insert the termination rights in Section III, Space Offered and Rates, of the GSA Form 1364, Proposal to Lease Space.

- d. Annual Rental/Alternative Offer. Insert the annual rental, and if applicable, the annual rental of the alternate offer. The annual rental, while not used in the evaluation process of comparing one offer to another, is an item worth noting. The annual rental, rather than the square foot rate, is stated in the lease. Various actions to be taken by the RPLO are determined by certain thresholds based on the annual rentals, such as contract clearance. The composite square foot rental for the different types of space, which is the basis for comparative evaluation, is calculated from the annual rental. See below for an explanation of the composite square foot rates.
- e. Composite Square Foot Rate/Alternate Offer. Insert the composite rental rate and composite square foot rental rate of the alternate offer. Verify that the composite rate is correct. For example, an offer is structured as follows:

2,000 USF of storage at \$1/USF
3,000 USF of laboratory space at \$15/USF
5,000 USF of office space at \$13/USF
10,000 USF

The easiest way to evaluate this offer for comparative purposes is to determine the composite square foot rate by calculating the annual rental.

Thus:

Storage space annual rental	\$ 2,000
Laboratory space annual rental	45,000
Office space annual rental	<u>65,000</u>
	\$112,000 annual rental cost

\$112,000 divided by the total square footage of 10,000 USF, results in an \$11.20 composite rental rate.

If only one type of space is solicited, the rental rate quoted for the space should be inserted on the abstract.

- f. Operating Cost Escalation. If the SFO has an escalation clause, please indicate this in the abstract and mark all appropriate blocks.
- g. Base Cost of Services. The base cost of services is the estimated cost of operating expenses, utilities and services listed on the [GSA Form 1217, Lessor's Annual Cost Statement](#). These costs are to be broken down into a cost per square foot basis. All costs should be negotiated, and be verified by an experienced RPLO. If the proposed lease contains an escalator clause, the rental will vary upward (escalation) or downward (de-escalation) in accordance with the CPI. Items that are considered operating expenses subject to the cost of escalation or de-escalation include:

- (1) Utilities;
- (2) Janitorial services;
- (3) Building system repair*;
- (4) Building system maintenance;
- (5) Property protection; and/or
- (6) Services of a building engineer for that portion of management cost devoted to the above items.

*Does not include major repairs, e.g., replacement of systems, replacement of roof, etc.

Compare the lessor's projected cost to other similar buildings. Make direct inquiries to the local utility company as to their past usage and projected cost of utilities. If possible, obtain copies of past utility bills and/or cleaning contracts or invoices. The Government's estimate for services must be reasonable. The base cost of services is included in the overall composite rental quoted for the term, but is broken out as a separate cost item for purposes of evaluation and escalation.

- h. Services to be Provided by the Government. It is the Department's policy to solicit fully serviced space. However, in the event services or utilities are not included in the rental rate and must be provided to the Government, they are to be listed separately. This occurs when an offer is made which excludes some service, i.e. an offer which is not fully serviced. After estimating the cost of providing these services in the subject building, the RPLO is to insert the per square foot amount to the Government. The RPLO should exercise judgment in this regard and document the lease file by an attachment to the abstract. This can be done in the same manner as noted above in the Base Cost of Services section. During negotiations, the offeror should be advised of the cost the Government has attributed to the service excluded from the offer. The offeror may wish to include services as part of the rental consideration to increase the offer while remaining below the Government's estimate, to stay competitive.
- i. Escalated Rental Increase Per Square Foot. If one or more offerors in a competitive situation has included annual escalation tied to the CPI, the estimate cost of that escalation must be added to the rent to determine overall cost to the Government. If one offer is received fully serviced and one offer is partially serviced, the cost of the Government provided services must be escalated as well.

To estimate the cost of the escalation when PVA is not used:

- (1) Multiply the base cost of services by the percentage rate of increase to represent the overall rate of inflation for the previous year by the number of years of the initial term;
- (2) Multiply the cost of Government provided services by that same rate and number of years in the initial term. (Insert the percentage rate of increase to be used in the abstract.);
- (3) The difference between the negotiated base cost of the services and average cost over the initial term is added to the rental to determine the overall cost to the Government;
- (4) The total escalated cost of Government provided services is added to the rental to determine the overall cost to the Government.

Please see [Appendix D](#) for an example of these calculations.

- j. Parking (or other costs). The RPLO must indicate the rate per square foot for parking required by the SFO if the rate is not included in the rent. For example, an offer quoted a rate of \$50 per month per vehicle in addition to the rent for 5,000 square feet of office space. The SFO specified a need for parking the three (3) official Government vehicles.

\$50 per month is multiplied by three (3) vehicles which are then multiplied by 12 months. The resulting rate is then divided by 5,000 square feet of office space.

$\$50 \times 3 = \150 $\times 12 = 1,800$ $/ 5,000 = \$0.36$ PSF. The resulting rate is inserted into the abstract.

- k. Overtime: HVAC/Zoned (Heating, Ventilation, and Air Conditioning) and Janitorial Services. The RPLO must insert the rates quoted by the lessor for use of heating, ventilation and air conditioning systems, utilities and janitorial services specifically required by the Government beyond the normal working hours. The rates are subject to negotiation using the same method as described in section g above, Base Cost of Services. The RPLO must indicate the rate, which is stated in hourly terms, per floor, per zone, other areas or the entire lease space.

Inquire with the lessor or owner if the building has zones. The RPLO must know what floors and space are zoned.

- l. Unit Prices. The RPLO must insert prices the offeror has quoted for installation, per unit, of ceiling height partitions (linear foot rate), floor electrical outlets, wall electrical outlets, telephone outlets, etc. These are the costs which will be added to or deducted from the actual awarded rent to reflect what was required per the SFO and actual installation. Unit prices remain if there are additional alterations that are required.
- m. Cost of Alterations. Depending upon the circumstances of the acquisition, SFOs may be issued where the cost of the initial space alterations or special requirements are to be

itemized separately from the rent. These costs may be either funded by lump sum or by a square foot rate above the rent and amortized over a portion or the life of the term, or both. Offerors must be advised of the time period over which these costs will be evaluated. The square foot cost of the alterations is added to the rent for evaluating the overall cost to the Government.

The lump sum cost must be supported by a written evaluation. For example, an offer is received for 5,000 SF at \$11 PSF for a five year term with lump sum payments totaling \$6,500.

$\$6,500 \text{ lump sum} / 5 \text{ years} = \$1,300 \text{ cost per year}$

$\$1,300 / 5,000 \text{ SF} = \$0.26 \text{ per square foot needed to fund additional alterations}$

\$0.26 should be inserted in the abstract for the evaluation of the overall cost to the Government.

- n. Other Price Factors. Moving Costs – The Government must provide an estimate of the potential cost of the move. The RPLO should include telecommunications cost (phone, cabling, etc.) since this can be a major expense. The moving cost is then reduced to an annualized square foot rate and stated in the SFO. The cost is then added for evaluation purposes to the square foot rental rate of those offers to relocate. The current lessor obviously has an advantage, but offerors knowing this disadvantage are able to structure their offers to narrow or eliminate that competitive edge.

4. ABSTRACT OF OFFERS (USING PVA)

PVA analysis for acquisitions of leasehold interest in real property calculates today's dollar value of future rental costs. The present value is the amount that must be invested now to produce the known future value. It is the value on a given date of a future payment or series of future payments, discounted to reflect the time value of money and other factors such as investment risk. The importance of this distribution of future rental cost over the term of the lease is based on the concept of the "time value" of money. The time value of money concept is that the present value of a dollar of future rental cost decreases with the amount of time that will elapse before the dollar is paid.

Assume, for example, that four years from today that \$100 is due. Knowing this, something less than \$100 would be invested. Some amount less than \$100 would be invested, which would be added to the original amount and would provide \$100 needed to pay the debt in four years. The amount that would have to be invested is called the present value of \$100. The conversion of future cost into their present value is called discounting. GSA provides a standard discount and inflation rate to be used in making a PVA. The rates are updated annually. The rates can be found in the [SFO](#) under the solicitation Provision 2.8.

When the SFO contains renewal option, PVA shall be included in the escalation process. Proposed leases under 10,000 USF do not require PVA when all responsive BAFOs are structured as follows:

- a. There are no free rental periods.
- b. Net annual rent will be level (does not include escalations) over the full term, including rental options if requested in the SFO. Net annual rent does not include expenses.
- c. Special requirements and other items that are not covered in the rent are to be paid over the same period of time, e.g., lump sum amounts or amortized (lump sum plus interest) over an indentified number of years.

5. PRESENT VALUE ANALYSIS MODEL

By using the [PVA](#) model, the RPLO is able to perform present value analysis of lease proposals. It includes inputs for overtime heating, ventilating and air conditioning (HVAC) rates, stepped rental rates, free rent, offerors' fee schedule as provided by Realty Services Letter 2008-04 and lump sum payments. It includes a discount rate of 5% and an inflation factor of 2.5% as provided by the [PE-2003-02, Realty Services Letter](#).

6. TOTAL COST TO GOVERNMENT

Add (for each offer):

- a. Square foot rate
- b. Escalated increase PSF

The average estimated, escalated cost of the Government provided services, if CPI adjustments are included in the offer

AND/OR

The average estimated, escalated cost of Government provided service, if the offer is not fully serviced

- c. Parking
- d. Cost of alterations
- e. Other award factors

This equals the total cost to the Government.

7. SEISMIC SAFETY

It is USDA's policy to ensure the safety of its employees. Accordingly, every effort should be made in the acquisition of space to house employees in seismically safe buildings. In this regard, all buildings for any new lease action must comply with current seismic standards.

In accordance with the [Earthquake Hazards Reduction Act of 1977](#), offers received are to be evaluated to determine if they fully meet the National Institute of Standards and Technology (NIST) Interagency Committee on Seismic Safety (ICSS) for existing construction <http://fire.nist.gov/bfrlpubs/build95/PDF/b95028.pdf> and new construction http://www.fema.gov/government/grant/pa/9527_1.shtm

8. SUSTAINABLE DESIGN

The Federal Government, including GSA and USDA, commits to incorporating principles of sustainable design and energy efficiency into all of its building projects. The result is an optimal balance of cost, environmental, societal and human benefits while meeting the mission and function of the intended facility. It is the Government's intention that sustainable design will be integrated as seamlessly as possible into the existing design principles listed below under LEED.

- a. GSA and LEED. As a measure of sustainability, all GSA and USDA new construction projects over 10,000 RSF and substantial renovations must achieve Silver certification through the [U.S. Green Building Council's \(USGBC\) Leadership in Energy and Environmental Design \(LEED®\)](#) green building rating system. Projects are encouraged to exceed LEED® Silver and achieve LEED® Gold. LEED® consists of a set of prerequisites and credits with specific requirements for obtaining points in order to become a certified green building.
- b. LEED. Projects of 10,000 RSF or above must meet the requirement of LEED for new construction (LEED-NC). Silver level is required. Sustainable design seeks to reduce negative impacts on the environment and increase the health and comfort of building occupants, thereby improving building performance. The basic objectives of sustainability are to reduce consumption of non-renewable resources, minimize waste and create healthy, productive environments.
- c. ENERGY STAR. GSA's [RSL-2010-2](#) implements the [Energy Star](#) requirement of the [Energy Independence and Security Act of 2007 \(EISA\)](#) for lease acquisition. Lease contracts entered into on or after December 19, 2010, must have earned the [Energy Star](#) label in the most recent year, unless the space requirement is in compliance with the following exceptions provided in EISA: 1) No space is offered in a building with an [Energy Star](#) label in the delineated area that meets the functional requirements of an agency, including location needs; 2) The agency will remain in a building they currently occupy; 3) The lease will be in a building of historical, architectural, or cultural

significance verified by listing or eligibility for listing on the National Register of Historic Places; or 4) The lease is for 10,000 RSF or less. If a building will not have an [Energy Star](#) label in accordance with one of the exceptions above, the successful offeror must nevertheless renovate the space for all energy efficiency and conservation improvements that would be cost effective over the life of the lease.

Sustainable design principles include the ability to:

- (1) Optimize site potential;
- (2) Minimize non-renewable energy consumption;
- (3) Use environmentally preferable products;
- (4) Protect and conserve water;
- (5) Enhance indoor environmental quality; and
- (6) Optimize operational and maintenance practices.

Utilizing a sustainable design philosophy encourages decisions at each phase of the design process that will reduce negative impacts on the environment and the health of the occupants, without compromising the bottom line. It is an integrated, holistic approach that encourages compromise and tradeoffs. Such an integrated approach positively impacts all phases of a building's life cycle, including design, construction, operations, and decommissioning.

9. ACCESSIBILITY

- a. [Architectural Barriers Act Accessibility Standard \(ABAAS\)](#). On November 8, 2005 the Federal Register included a section from GSA amending 41 CFR Parts 102–71, 102–72, et al; FMR; Real Property Policies Update; Final Rule. Subpart C of this amendment pertains to the Architectural Barriers Act, and states that GSA has adopted the ADA / ABA Guidelines (Part II ABA Application and Scoping and Part III Technical Chapters) issued by the Access Board on July 23, 2004 as the Architectural Barriers Act.

ABAAS is the accessibility standard for all Federal facilities. ABAAS **replaces** the Uniform Federal Accessibility Standards (UFAS) as the accessibility standard for federal facilities.

This applies to all USDA leased, owned, and GSA controlled facilities.

All USDA leases awarded prior to February 6, 2007, will continue to use the UFAS. ABAAS requirements will be included in all leases solicited, renewed, or otherwise entered into after February 6, 2007. In addition, any [41 CFR Parts 102-71](#),

| [102-72](#) alterations or improvements to USDA leased space made, or contracted for, after June 1, 2010 must be ABAAS compliant.

The Department is required to provide an “accessible route of travel” for leased space. This includes at a minimum:

- (1) An accessible route and an accessible entrance;
- (2) At least one accessible restroom for each sex or a single unisex restroom;
- (3) Accessible telephones;
- (4) Accessible drinking fountains; and
- (5) Accessible parking spaces.

b. Exceptions for Leased Space

- (1) Elements in compliance with an earlier standard issued pursuant to the Architectural Barriers Act or Section 504 of the Rehabilitation Act of 1973;
- (2) Limited Access Spaces, such as those accessible only by ladders, catwalks, crawl spaces, or very narrow passageways;
- (3) Spaces frequented only by service personnel for maintenance, repair, or occasional monitoring of equipment (Machinery Spaces);
- (4) Where a two story building or facility that has one story with an occupant load of five or fewer persons that does not contain public use space, that story shall not be required to be connected to the story above or below;
- (5) Structures and equipment directly associated with the actual processes of construction;
- (6) Alterations to qualified Historic Buildings and Facilities (limited exceptions);
- (7) Buildings or facilities leased for 12 months or less provided that the lease may not be extended or renewed; and/or
- (8) Buildings or facilities leased for use by officials servicing disasters on a temporary, emergency basis.

10. SECURITY REQUIREMENTS

These requirements are developed for the protection of USDA employees, agency property, facilities, contractors and the public. The Department reserves the right to restrict access to USDA facilities.

The security requirements described below are unique physical security countermeasures in terms of the special needs to protect life and property that may differ or exceed the requirements described in all other sections.

These requirements must have a sense of scale that would not distract from the neighborhood and/or community while communicating a professional USDA image in a complimentary way. The building and grounds must remain inviting to the public yet provide necessary physical security protection at a level where federal employees feel safe within their work environment.

It is important that the public (community and visitors) and employees be comfortable with the facility as both a work place and public building. The physical security needs shall reflect responsible expenditure of taxpayers' funds and be modest, yet ensure effective physical security countermeasures are present to protect personnel and assets.

Adjacent and surrounding properties shall have zoning and or land use consistent and compatible with the project. Physical features of the site, e.g. size, shape, topography, drainage, etc., shall permit the economical and safe development of the property for its intended use and function. Administrative sites are to project the image of an environmentally aware, concerned and professional governmental organization.

The facility will meet all legal requirements and standards for a federal office building to include but not limited to: [Homeland Security Presidential Directives 7, 9, 12, and 20](#); [Interagency Security Committee Facility Security Level Determinations for Federal Facilities](#), [Physical Security Criteria for Federal Facilities](#), [Design Basis Threat standards](#), [ISC Facility Security Committees](#); [Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities](#); Architectural Barriers Act Accessibility Standard (ABAAS), and [National Fire Protection Association 101: Life Safety Code](#). All referenced requirements should be based on a Physical Security Assessment that follows the [USDA Risk Based Methodology](#).

To fully understand what physical security countermeasures are needed at each facility, it is imperative that a Risk Based Physical Security Assessment be conducted. This will determine a Facility Security Level, identify unique threat probabilities, disclose any vulnerability based on the identified threat and understand the risk (consequences) of a compromise to the facility if the threat is not mitigated through recommended security countermeasures. The completed assessment would provide a threat/risk mitigation plan that identifies a proper level of protection for the employees, facility and assets.

The following sections provide a basic guideline for the facility that meets the requirements of a Level 2 Facility in accordance with the ISC Facility Security Level Determination for Federal Facilities.

a. Overview of Lease Security Standards

- (1) The Government will determine security standards for facilities and agency space requirements. Security standards will be identified through a Risk Based Methodology Physical Security Assessment.
- (2) The Agency Physical Security Officer (GS-0080) will provide the security level designation as part of the space requirement and will identify all required security standards.
- (3) Within 120 days of lease award or at the time of submission of working/construction drawings, whichever is earlier, the Lessor shall provide the Government with itemized costs of the security items in this section, if applicable.
- (4) A security level designation may be determined by the individual space requirement or by the assessed, cumulative tenant agency mix within a given facility. If an Offeror is offering space in a facility currently housing a federal agency, the security level designation of the facility may be increased and the Offeror may be required to adhere to a higher security standard than other Offerors competing for the same space requirement. If two or more federal space requirements are being competed at the same time, an Offeror submitting on both or more space requirements may be subject to a higher security standard if the Offeror is determined to be the successful Offeror on more than one space requirement. It is incumbent upon the Offeror to prepare the Offeror's proposal accordingly.

- b. Deterrence to Unauthorized Entry. The Lessor shall provide a level of security through card reader access (HSPD-12 and Enterprise Physical Access Control System (ePACS) compliant) that reasonably prevents unauthorized entry to the space during non-duty hours and deters loitering or disruptive acts in and around the space leased. The Lessor shall ensure that security cameras and lighting are not obstructed.

The Interagency Security Committee (ISC) issued new security standards for government leased space, and GSA has incorporated the ISC security standards into its solicitation for offers. ISC Standards will provide a consistent level of security to federal tenants in leased space commensurate with the tenant agency's mission-specific risks, vulnerability, and market conditions. The standards are not intended to force location decisions contrary to the mission requirements of the client agency. They do not preclude leasing in central business areas, nor do they forbid a retail presence in GSA leased buildings. A copy of the ISC Standards document is available at:

http://www.dhs.gov/files/committees/gc_1194978268031.shtm.

The following table shows the minimum requirements for security Levels I through IV:

<http://www.gsa.gov/portal/content/104482>

Additional details and specific solicitation paragraphs are available in the [Realty Services Letter, Lease Security Standards](#). The entire GSA solicitation for offers is available on www.gsa.gov/leasing.

11. AWARD FACTORS

The purpose of award factors is to provide a basis for determining which offer is most advantageous to the Government with regard to factors other than price. The RPLO should use pertinent factors which will have a real influence on the outcome of the award. Offerors must be advised in the SFO of the evaluation criteria used for the award. It is possible that award factors could be interpreted during the initial evaluation that certain offerors should be eliminated for non-compliance before negotiation.

12. NON-RESPONSIVE OFFERS

A non-responsive offer is one that does not meet the terms and conditions of the SFO. Before determining that the offer is non-responsive, a statement must be prepared by the RPLO describing the reasons the offer is non-responsive.

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CHAPTER 6

NEGOTIATIONS

After receipt and evaluation of offers and inspection of all locations, verbal discussions should be conducted with all competitive offerors meeting, or capable of meeting, the minimum stated requirements. The key to successful negotiations is advanced preparation.

1. ESTABLISH NEGOTIATION OBJECTIVES

One of the most critical aspects of leasing space is negotiating the best price for the Government. Establishing pre-negotiation objectives is a valuable step to assist the RPLO in achieving this goal. These written pre-negotiation objectives will provide a pricing guide that will enhance the effectiveness of negotiations for the purpose of obtaining the best possible price.

A negotiation objective is stated as a range of position: maximum, target, and minimum.

- a. A maximum position is the most advantageous price the government can obtain.
- b. A minimum position is the least advantageous price the government will accept.
- c. A target position is the price the Government can reasonably accept.

Assemble all notes developed from the abstract of each offer, market survey and other technical input and establish a minimum and maximum rental range PSF, base cost of services, lump sum alterations, unit prices, etc., for each building offered prior to entering the first round of negotiations. Written negotiation objectives are to be established prior to negotiations.

The negotiations will address these costs as well as review the SFO to resolve any uncertainty relating to the requirement and specifications, e.g. review special requirements to be amortized or lump sum amounts, accessibility, fire and life safety requirements to be included in the basic rent, timeframes to complete the space, etc.

- a. Fair Annual Rent. Receiving multiple offers with similar prices is usually sufficient to demonstrate that the price paid is fair and reasonable. It is common to make a determination based on a comparison of the fair annual rent.

The fair annual rent is the rent that an intelligent, reasonable and willing lessor is willing to accept and an intelligent, reasonable tenant (the Government) is willing to pay. A fair

annual rent should be based on actual deals rather than offers, as is the determination of value which is based on offers.

Independent appraisals are used in certain acquisition situations and the fair annual rental may have to be determined by someone other than the RPLO. Appraisals and the need for an appraisal are outlined in the next chapter.

2. NEGOTIATION SESSION

The RPLO or representative should meet with the offeror or authorized agency face to face (preferred) or confer by telephone or correspondence. Separate negotiations must be conducted with each offeror. During negotiations the following rules should be observed:

- a. Any concession of additional requirement given to one offeror must be given to all others.
- b. Offers must be kept confidential prior to award.
- c. Time extension and other modifications to the SFO must be in **writing** to all offerors.
- d. Verbal agreements must not be used.

Negotiations should be continued as necessary to obtain the rental rate most favorable to the Government. A basic lease checklist is to be used during both the negotiation and the drafting process. It is not exhaustive of all issues a party may encounter in an office lease transaction, but it does provide a good, quick reference to check off basic lease issues. The RPLO needs to treat an existing “stay put” landlord the same as a relocation landlord. (See [Figure 5](#))

3. COMPLETE NEGOTIATIONS

After the final negotiation sessions have been held, the RPLO is convinced that all items have been adequately discussed and negotiated and all offerors are within the Government’s price estimates, negotiations should be closed. A date and time of closing the negotiations is established and offerors will be requested in writing to submit a Best and Final Offer (BAFO) by the date defined by the RPLO. Negotiations may not be conducted after the closing date for BAFOs unless negotiations are reopened with all offerors in the competitive range.

4. DOCUMENTATION

- a. Price Negotiation Memorandum. A written negotiation record must be placed in the lease file. A price negotiation memorandum (PNM) is useful in outlining information supporting the recommendation for award. (See [Appendix E](#))
- b. Letter of Intent. A Letter of Intent (LOI) is a written document that memorializes the essential business and legal terms of a lease negotiation. It is signed by all parties in expectation of a lease being prepared and executed. The LOI, itself, might be subject to further negotiation until the RPLO is satisfied with its provisions. USDA will prepare an LOI for the best finalist, incorporating each and every point that has been negotiated to date. USDA will articulate issues that are outstanding and required by the agency in order to move to lease preparation. Remember, a landlord's position and mindset is typically firmer after a Letter of Intent has been negotiated and signed. Financial analyses need to be revised to reflect changes in economic terms that may have changed during the course of negotiations.
- c. Lease Document Review. The RPLO will ensure that all negotiated points are encompassed in the final lease document. It is critical that the RPLO isolate and negotiate important business terms and lease issues before taking delivery of a lease document.
- d. Lease Ready for Execution. At the end of this stage all agreements written and verbally agreed to must be updated and fully documented to reflect the final transaction and commitments made during negotiations.

5. APPRAISAL

An appraisal performed by the RPLO, a staff appraiser or an independent contractor was formerly required to support negotiated contract rents for leases. However, acquiring an appraisal is a time consuming and often an expensive process that is not common industry practice for leasehold acquisitions. Therefore, the requirement for an appraisal has been eliminated by GSA.

Certain circumstances as set forth in the [41 USC 254b, Truth and Negotiations Act \(TINA\)](#), may still require an appraisal be performed. TINA requires offerors submit cost and pricing data when adequate price competition does not exist for leases having a total contract value greater than \$650,000. The market price exemption from submission of cost or pricing data may be applied to proposed leases when there is evidence that the price is based on an established market price for similar space leased to the general public. A market survey and/or an appraisal may be used as evidence to establish the market price (see [GSAR 570.204-4, Negotiation, Evaluation, and Award](#)). When the cost or pricing data provisions of TINA are triggered and no market price information is available, such as at border stations or laboratories, an appraisal should be prepared instead of requiring lessor's to submit cost and pricing data.

The elimination of the requirement for appraisals to support lease acquisitions does not preclude the RPLO from obtaining an appraisal if best judgment leads to a determination that an appraisal is needed.

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CHAPTER 7

AWARD

1. LAYOUTS

During the negotiations, preliminary layouts are discussed. Prior to award, the RPLO must finalize these drawings to ensure accountability with the SFO to include accessibility and fire and life safety concerns, and to identify any extra requirements as noted in change amendments prior to the award. The approved layouts should be forwarded to the lessor in writing to document the transmittal date. Agency approval of the layout should be limited to the location and arrangement of partitions, the number and location of telephone and electrical outlets, paint, floor coverings and window covering selections. Do not sign off on the lessor's mechanical, electrical, structural or architectural drawings. The design and operations of these systems are the responsibility of the lessor.

2. CONTRACT CLEARANCE THRESHOLDS

Prior to award, written contract clearances and written approval are required for lease actions at the following thresholds:

TABLE 2

CONTRACT CLEARANCE THRESHOLDS (this is a real property)

Threshold	Approval Level
<\$50,000	None
\$50,000-500,000	One level above RPLO
\$500,000-Prospectus Level	HRPLA

These totals do not include services and utilities, they are net annual rentals. Prospectus levels change annually (please see [annual prospectus levels](#)).

NOTE: Any lease contract that exceeds the current year prospectus level must be forwarded to OPM for transmittal by GSA to the House and Senate Committee Public Works. The Committees' approval must be obtained prior to execution of the lease contract. All prospectus rents are less utilities.

3. AWARD PROCESS

- a. At the conclusion of negotiations, the RPLO and the successful offeror will execute an award prepared by the RPLO.
- b. The award is made to the responsible offeror whose proposal is most advantageous to the Government, considering price and other factors included in the SFO.
- c. The award should be made in writing within the timeframe specified in the SFO. If an offer cannot be made within that time, the RPLO should request in writing from each offeror an extension of the acceptance period through a specific date. Lease award letters are no longer required according to GSA's RSL 2009-7. Lease award occurs upon the execution and mailing or otherwise furnishing notification of execution.
- d. Unsuccessful offerors must be notified simultaneously in writing of the award.
- e. All proposals received in response to a SFO may be rejected if the HRPLA/RPLO determines that action is not in the public interest.
- f. When there is an ambiguity in a contract, the courts typically will rule against the party (the Government) that writes the contract. Therefore, in preparing the award letter or lease it is essential that the entire lease, including all attachments, is consistent in reflecting the negotiated agreement. The lessor and RPLO must initial each page of the lease, including all attachments. Only the final offer, if complete, will be incorporated in the lease.
- g. Prior to signing the lease the RPLO must score the lease in accordance with [OMB Circular A-11, Appendix B](#) (referenced in GSA Realty Services Letter, [RSL 2008-03](#)).

4. PREPARATION OF CONTRACT

The lease agreement is prepared on the [Standard Form 2 \(SF 2\), U.S. Government Lease for Real Property](#). If the RPLO is using the Simplified Leasing Acquisition Procedures, please use the [GSA Form 3626 or 3626A, U.S. Government Lease for Real Property \(Short Form\)](#). This form is sometimes referred to as the Short Form.

5. PROTESTS TO THE GOVERNMENT ACCOUNTABILITY OFFICE (GAO)

The bid protest provisions of the [Contracting in Competition Act \(CICA\)](#) provide the Comptroller General with authority to decide a protest concerning an alleged violation of a procurement statute or regulation.

- a. Pre-award protest. A lease may not be awarded while the protest is pending unless the HRPLA determines in writing that urgent and compelling circumstances which

significantly affect interests of the U.S. Government will not permit waiting for the decision of the Comptroller General, and the Comptroller General is advised of the finding. The finding may be made only if the award is to occur within 30 days.

- b. Post-award protest. If notice of protest is received within ten (10) calendar days after award, the RPLO will be required to issue a stop-work order unless the HRPLA makes a written finding that performance of the contract is in the best interest of the Government or urgent and compelling circumstances which significantly affect interests of the U.S. Government will not permit waiting for the decision of the Comptroller General, and the Comptroller General is advised of the finding.
- c. Termination of the lease is recommended. If the Comptroller General ultimately recommends termination of the lease (whether or not the work has been stopped) the HRPLA must decide whether to terminate the lease.

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CHAPTER 8

PROCEDURES AFTER LEASE IS EXECUTED

1. DESIGN INTENT

- a. Lease Content. The lease will contain timeframes for submission of approved design intent layouts and the lessor's submission of working drawings for approval by the RPLO. Since USDA's occupancy depends upon the lessor's completion of the space, it is important to monitor these submissions to ensure that the timeframes are met. Missing these dates could cause many complications, including liquidated damages and paying rent before the space is complete and ready for occupancy.
- b. Sequence of Events.

The sequence of events should proceed as follows:

- (1) USDA submits approved design intent to the lessor within the specified timeframe stated in the lease.
 - (2) The lessor prepares working drawings and/or construction documents (drawings and specifications, etc.) and submits them to USDA prior to beginning construction.
 - (3) USDA reviews the drawings and final fire safety report.
 - (4) The RPLO approves the final layouts and sends the approved layouts with a transmittal letter to the lessor. The purpose of the letter is to instruct the lessor not to proceed with any above standard items without specific written approval from the RPLO. Paint colors and carpet selection are negotiated and will be included with the final plans.
 - (5) The RPLO negotiates any above standard items and formalizes the price by supplemental lease agreement (SLA) for a lump sum amount, after justifying the cost by an independent estimate.
- c. Electrical and Telephone Outlet Layouts. The RPLO accepts or rejects only layouts for partitioning and placement of electrical and telephone outlets. The RPLO does not sign off on lighting, mechanical, electrical or plumbing plans. However, this does not remove the lessor's liability.

- d. Inspection Before Acceptance. The complete work for both standard and above standard items must be inspected by the Government before acceptance.

2. ALTERATIONS AND GENERAL ACCEPTANCE

- a. The lease or SLA should cover the responsibilities of the lessor in performing alterations or other construction work necessary to prepare the space for occupancy. The agreement should contain at least the following obligations:
 - (1) The lessor is responsible for inspecting the site to determine the quantity of work involved, comparing the specifications with the work completed and keeping informed on all conditions affecting the work.
 - (2) If the contract allows any work after occupancy, the lessor must schedule the work to minimize any interference with the activities of the occupants; the lessor should ascertain the hours that are best for the purpose of inspection when the RPLO is preparing the SFO.
 - (3) The lessor is responsible for fire and accident prevention, which may include restricting or directing flow of pedestrians or vehicles around work areas, using appropriate safety equipment and providing proper waste containers and paint containers sealed when not in use.
 - (4) The lessor will furnish all supplies, materials and equipment for performance of the work, which shall be of the quality conforming to applicable Federal standards.
 - (5) The lessor will comply with all applicable laws, ordinances and regulations (Federal, state, county or other), including those covering foreign nationals.
 - (6) The lessor must indemnify the Government against any and all liability claims for injury, death or property damage arising from work performance that may result in whole or part from negligent acts or omissions of the lessor.

Periodic inspection by the RPLO or USDA representative should be made during the progress of the work. Early visits may require only a walk-through. However, later visits should be more detailed as work nears completion. The inspector should compare the construction against copies of the final approved layouts and note any items that are missing, such as outlets, outlet covers, doors, locks, window coverings, etc. The RPLO should prepare an inspection checklist.

3. ACCEPTANCE DATE

- a. Commencement of Payment and Anniversary of Lease. The RPLO is to place a memorandum in the lease file that denotes that the acceptance date establishes the

commencement of the payment of rent and the anniversary date of the lease. Smaller blocks of space are generally accepted in their entirety on a single date, usually the day following the final acceptance of space – the day scheduled for move in.

- b. Composite Date. If the lease involves a large amount of space, with a phased completion, acceptance and move-in, it may be necessary for the RPLO to set a composite date for commencement of rent. This can be done in two steps:

- (1) Divide the total annual rent for all segments of twelve to arrive at the monthly average.
- (2) Divide the total actual rent paid through the day before rent is to commence on the last increment of space by the average monthly rent from step 1 above. With the resulting amount, the RPLO then counts back from the specific date used. Composite rents should be avoided, if possible. It is preferable to use a single move-in date if operations permit.

Example: $\$120,000/12 = \$10,000$ Step 1
Rent is to begin on the 15th of the month.
 $\$10,000/15 = \666.67

4. PAYMENT

The [USC 3901 et.seq, Prompt Payment Act](#) requires that payments be made by an established payment due date. The Prompt Payment Act further requires that the following clause appear in all SFOs and contracts for leases for real property.

“Payment under this contract will be due on the fifth (5th) workday of the month following that in which payment accrued.”

The Prompt Payment Act allows for a 15 day grace period following the due date to effect payment. If payment is not made by the contract due date or within the subsequent grace period, interest will be computed and added to the amount due.

The RPLO should establish the lease commencement date based on the results of the final inspection. If an executed lease agreement already exists, a SLA establishing the commencement date should be prepared and forwarded to the lessor. In other cases, the lease agreement with the appropriate term should be prepared and forwarded to the lessor for signature.

The RPLO should forward a copy of the signed lease and all required agency forms to the agency’s financial office for payment. The requirements of the Prompt Payment Act on the initial and subsequent payment should be noted by the leasing activity and the payment center. All payments must be electronic funds transfers (EFT).

5. ACCEPTANCE INSPECTION

- a. Participants. If possible, the acceptance inspection should be made jointly by the RPLO or their designee, the buildings manager or their designee, the lessor and personnel qualified to inspect features within their sphere of expertise.
- b. Inspection Checklist. Having a lease inspection checklist will be helpful, prepared in advance, covering all of the details to be checked. The list can be divided into sections such as General, Architectural Finishes, Fire and Safety, Toilet Facilities, Accessibility Features, etc. On the checklist, make general notes on the overall condition of the building systems, such as exterior, HVAC, elevators, restrooms, walls, ceilings, floors, etc. Check the placement of partitions, doors, outlets, and other fixtures against the locations called for in the approved tenants' layouts. Verify the measurements of dividing walls, restrooms or other structures that might affect the usable space that has been built since the initial survey inspection. The space must be physically measured.

6. DEFICIENCY LIST

From the inspection checklist, prepare a list of deficiencies that must be corrected. This list is commonly referred to as a punch list. Specify the following:

- a. List all items that must be corrected, including items vital to the operation, which threaten safety or whose correction after occupancy would cause undue disruption to the operation.
- b. List all items that can be deferred until after occupancy. For each deferred item, set a deadline for correction and include the action in the lease and follow up. Document the lease file.
- c. A Condition Survey Report that can be used upon inspection.

7. MISTAKES AFTER AWARD

If a mistake in the lessor's offer is noted after award, the mistake may be corrected by a SLA if the essential requirements of the SFO are not changed and if correcting the mistake will be advantageous to the Government. The RPLO may rescind the award or reform the contract/lease to remove or correct the mistaken items if this will not increase the price above the next lowest offer. The RPLO should coordinate each proposed SLA with the appropriate legal counsel for comments. The RPLO should provide to counsel, at a minimum, the proposed determination on the lease file. For guidance, please see [FAR 14.406, Receipt of an Unreadable Electronic Bid](#), and [GSAM 514.4, Opening of Bids and Award of Contracts](#).

8. POST AWARD PUBLICIZING

The RPLO is required to publish a synopsis in the [Federal Business Opportunities](#) online. Reporting is required for all awards when the value of the lease (including all options) exceeds \$25,000 and the lease contains subcontracting opportunities. The requirement does not apply to lease modifications (SFOs)/alterations made within the scope of the lease which have no subcontracting opportunities. The synopsis should contain, at a minimum, the following information:

- a. Lease of real property;
- b. Net office square footage;
- c. Location;
- d. Initial term, and term and number of options;
- e. Lease number, award date, and SFO number;
- f. Name and address of lessor; and/or
- g. Annual rent

9. MOVE-IN

The landlord will be responsible for the construction modifications. The move-in, however, is the responsibility of the agency RPLO. As soon as the location of the new facility is determined, the RPLO should contact moving companies. Scheduling the mover early is imperative, because most leases terminate at the end of the month, which becomes a natural peak of activity for commercial movers. From the start, share consistent information with all potential moving companies in order to get the most comparable bids. Bids are only estimates, and some moving companies may underestimate in order to win business. The RPLO must confirm their accuracy by comparing each of the proposals for the amount of man-hours estimated by the mover. It is wise to check references that are current, since many moving companies experience rapid turnover in employees, and insist that all moving company personnel are experienced employees of the mover. Make sure the moving company is equipped to handle the USDA's unique needs. Determine whether the moving company or USDA employees will be packing. Most movers recommend that individuals pack their own desks and personal items. Find out if the mover will supply boxes and packing materials well in advance of the move date. The RPLO should enlist the mover's expertise to offer solutions and to identify ways of saving money on the move. (See [Figure 6](#))

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CHAPTER 9

SPECIAL PROCEDURES FOR CONTINUED OCCUPANCY

1. RENEWAL OPTIONS

A renewal option is a unilateral right to the original lease contract by which, at a specified time or times, the Government may elect to extend the term of the lease for a specified period. Un-priced options and unevaluated options are considered new acquisitions and, therefore, must be handled as either a new acquisition or a succeeding lease.

- a. Evaluating Options. The RPLO must advise the lessor in writing, within the timeframe specified in the lease, that the Government will exercise an option. The RPLO may exercise the renewal option only after determining the following:

- (1) Funds are available;
- (2) The space covered by the option fulfills an existing Government need;
- (3) No vacant federal space is available to meet the need; and,
- (4) By exercising the option, it is the most advantageous method.

After considering price and other factors, the RPLO makes the determination on the basis of the market survey, which focuses on the prevailing rental rates from comparable space. The results of the market are documented in a market survey. The options may be exercised if the market survey indicates that the option price is better than prices available in the market and that the option is the most advantageous offer. Relocation costs are also considered in determining the most advantageous offer. A market survey is required.

- b. Un-priced Options and Unevaluated Options. In the case of un-priced or unevaluated options, the RPLO must follow the procedures for a new competitive acquisition or the procedures for succeeding leases. Unevaluated renewals are subject to [Energy Star](#) criteria as described in GSA's instructions contained in [RSL-2010-2](#).

2. SUCCEEDING LEASES

A succeeding lease for the continued occupancy of space in a building may be entered into when a cost benefit analysis has been conducted and the results indicate that an award to an offeror other than the present lessor would result in a substantial relocation and duplication

costs to the Government that are not expected to be recovered through competition. **It must be understood any succeeding lease must have been approved by GSA for delegation before proceeding with this process.**

- a. Advertising. Advertising is not required for blocks of space under 10,000 SF. If the RPLO chooses to advertise, the published notice or flyer should:
 - (1) Indicate the Government's lease is expiring;
 - (2) Describe the agency's needs in terms of type of and alternative space, if economically advantageous;
 - (3) Advise prospective offerors that the Government will consider the cost of moving, alterations, etc., when deciding if relocation is feasible; and/or
 - (4) Communicate to interested parties contact information if interested in providing space to the Government.
- b. Market Survey. Inspect all available locations or offered space that appears to meet, or is capable of meeting, the minimum requirements regarding quantity, quality, availability, and probable cost. Use [GSA Form 3627, Lease Market Survey](#), to document the survey findings. The form should document all reasons the space was unacceptable and identify interested parties that should receive the SFO.
- c. Competition Determination. The RPLO is to consider the following:
 - (1) If no potential acceptable locations are identified through an advertisement or the market survey, the RPLO may prepare a justification to negotiate directly with the present lessor. The present lessor is sometimes referred to as the incumbent. The justification must be prepared and approved by the RPLO and the lease file should fully document the efforts of the RPLO to locate alternative space.
 - (2) If potentially acceptable locations are identified through advertisements or market survey and relocation cost (including estimated cost for moving, telecommunications and alterations, amortized over the firm term of the lease) are not significant enough to preclude recovery of such cost through competition, the RPLO may proceed to develop the SFO and negotiate with all interested parties.
 - (3) If potentially acceptable locations are identified through the advertisement or market survey and substantial relocation costs are involved, the RPLO conducts a cost benefit analysis to determine whether the duplication of costs to the Government could be recovered through competition. The cost benefit analysis must give consideration to the prices of the other potentially available properties, relocation costs and other appropriate considerations. The prices quoted for standard space will be adjusted by the Government for special requirements. The RPLO provides a general description of the Government's needs for special requirements. A SFO is

not required for the purpose of obtaining market survey information quotes. If verbal quotes are provided, the lease file must be documented to reflect the following information: the name and address of the firm solicited, the name of the firm's representative providing the quote, the price(s) quoted, the description of the space and services for which the quote is provided, the name of the Government employee soliciting the quotation and the date of the conversation. Additional information may be supplied if relevant and germane to the procurement. The informational quotes shall be compared to the present lessor's price and adjusted to reflect the anticipated prices for a succeeding lease.

Based on the results of the cost/benefit analysis, the RPLO will:

- a. Prepare a justification for approval to support the determination to negotiate with the present lessor for continued occupancy because it is likely that an award to any other offeror will result in substantial duplication of cost to the Government that would not be expected to be recovered through competition, or
- b. Develop the SFO and negotiate with all interested parties.

3. EXPANSION SPACE

The original lease term cannot be extended when acquiring expansion space. Lease expansions provide additional space when programmatic changes occur and usually do not result in a change to the lease termination date. The lease expansion **must** have GSA's authorization. The process for requesting this authorization is the same as requesting authority for a new lease. Delegation of authority will not be granted if the initial and expansion space together totals in excess of 19,999 rentable SF of General Purpose space.

When the expansion space needs are outside the general scope of the procurement, a market survey is conducted to determine whether suitable locations are available.

- a. If alternate locations are available, a cost/benefit analysis is performed to determine if it is in the Government's best interest to relocate. The analysis is to include:
 - (1) The cost of alternate space as compared to expanding at the existing location;
 - (2) The cost of moving;
 - (3) The cost of duplicating existing improvements; and/or,
 - (4) The cost of the unexpired portion of the firm term (unless termination is possible. If this is possible, this course of action should be used.)
- b. If suitable space is not available, and the cost of the space exceeds \$100,000.

4. SUPERSEDING LEASES

When needed changes (such as expansions and/or alterations) to the space are so numerous, detailed or would otherwise substantially change the present lease, consideration should be given to the execution of a superseding lease. A superseding lease **must** have GSA's authorization. A market survey must be conducted to ensure that no other suitable space meeting the needs of the agency is available. Justification statements must be prepared and approved at the agency level before negotiation of a superseding lease if the amount of the lease over term (including renewal options) exceeds \$100,000.

5. LEASE EXTENSIONS

Lease extensions provide for continued occupancy on a short term basis, usually not to exceed one (1) year. A lease expansion **must** have GSA's authorization. A market survey is required to document that the price for the extension is fair and reasonable. In the justification, the RPLO should cite, per [41 USC 253 \(c\)\(1\), Competition Requirements](#), "only one responsible source" for approvals for extensions exceeding \$100,000. This authority may be used to extend the term of a lease by SLAs in situations such as the following:

- a. When the agency occupying the space is scheduled to move into GSA controlled space, or other USDA controlled space, but unexpected delays are encountered in acquiring the new space.
- b. When unexpected delays which are outside the RPLO's control (e.g. protests, etc) is encountered in acquiring the replacement space.
- c. When various agencies (e.g. NRCS, RD, FSA, etc) occupying lease space are being consolidated and it is necessary to extend the term of one or more leases to establish a common expiration date.

6. SPACE FOR SHORT-TERM USE

An agency may lease space for short-term use not to exceed 180 days for meetings, conferences, judicial proceedings and emergency situations. Agencies should make efforts to utilize Government-owned or leased space before initiating a lease action. Such efforts should be documented in a lease file. The acquisition of short-term space requires competition. A market survey, agency specifications, negotiations and awards are required. Purchase cards can be used to acquire space provided the threshold does not exceed the cardholder's authority.

7. LEASE ALTERATIONS

The Government generally has a contractual right to alter the lease space. Most alteration actions are acquired through a SLA with the lessor to the lease because the alterations fall within the general scope of the lease and it is in the Government's best interest to acquire the alterations from the lessor. As the need for alterations arises during the term of the lease contract, the RPLO must examine each project and make a determination as to whether the alterations are within the general scope of the lease and may be acquired through a SLA to the lease. The primary test for the RPLO is to determine if the work is a fairly and reasonably inseparable part of the lease requirement originally contracted. If the alterations are outside the general scope, the RPLO must make a decision to acquire the alteration through a separate contract or through a SLA with the lessor.

a. Alterations to the Lease Space

- (1) The justification and approval requirements must be complied with before negotiating directly with the lessor for any alterations project exceeding \$100,000 which is outside the general scope of the lease contract.
- (2) Before negotiating directly with the lessor for any alterations project for \$100,000 or less which is outside the general scope of the lease, the RPLO should document, in writing, in the lease file the reasons for the absence of competition.
- (3) Procedure:
 - (a) Prepare a copy of work statement for the alterations project to include plans and specifications.
 - (b) An independent Government estimate (IGE) must be prepared for all alteration projects.
 - (c) Provide the lessor with a scope of work, including any plans and specifications, and request the submittal of a proposal by the lessor. The proposal should be requested to be submitted in such detail that a cost or price analysis can be done.
 - (d) Analyze the cost of the project as compared to the IGE.
 - (e) Negotiate price – The Government's alterations may enhance the value of the lessor's property. The objective is to provide a good deal for both parties.
 - (f) Award may be procured using a SLA. The agreement should indicate whether progress payments or lump sum will be issued for projects of \$50,000 or less, provided a reference is made to the lease.

- (g) Final payment for the alterations cannot be made until the work is inspected and certified by a qualified Government employee or independent Government contractor as being completed in a satisfactory manner.
- (h) The requirements for submission of certified cost or pricing data outlined in [FAR 15.804-2](#) apply to alteration projects over \$100,000. The procedural requirements found at FAR 15.804-6 (same cite as found in previous sentence) must be followed when requesting cost and pricing data.
- (i) All lease alterations that are estimated to exceed one half of the [current prospectus level](#), regardless of whether the payment for the alteration is in a lump sum or amortized into the rent, must have congressional approval prior to award. Any lease alteration project estimated to exceed this amount should be forwarded to OPPM for transmittal by GSA to the House and Senate Committees of Public Works.

NOTE: The RPLO should have the lessor sign a waiver of restoration for all lease alterations performed by the lessor.

- b. Alterations by the Government. When the Government elects to exercise its rights to make the alterations rather than contract directly with the lessor, the work may be performed by Federal employees or may be contracted out using all of the standard contracting procedures that would apply for a construction contract as if the work was to be performed on Federal property. If the Government decides to contract for the work, the lessor, as well as the other prospective contractors, should be invited to submit an offer for the project.

8. TERMINATION

Termination of a lease may be made by allowing the lease to expire, exercising the termination rights as determined in the lease or by negotiations. These termination rights are in addition to termination for default, fire or destruction.

Termination of the lease by permitting its expiration may be accomplished either by withholding a notice of renewal or by allowing the lease to expire. Regardless of which, the lessor should be notified of the Government's intent no less than 30 days in advance.

When leased space becomes unoccupied and there is no prospect for assignment and the Government has no right for immediate termination, negotiations are initiated to affect the release of unoccupied space. If cancellation cannot be negotiated, efforts are made for the reduction in service and utility charges for the remainder of the term. Vacant property must be offered to GSA for possible assignment to other agencies (see [FMR 102.75-70, Subpart B, Utilization of Excess Real Property](#)).

If terms and conditions permit and there is no Federal tenant available, agencies can attempt to out-lease or sublease the vacant space. Agencies cannot attempt to make a profit from the out-lease. Any funds collected must be turned over to the general Treasury funds.

9. RESTORATION

Restoration is the physical replacement or repair of the premises at the termination of the Government's occupancy to the same condition existing at the commencement of such occupancy, except for reasonable and ordinary wear and tear. Changes made to the space during the occupancy are subject to restoration by the Government if not waived or restoration for all lease alterations performed by the Government if NOT waived by the lessor at the time of installation. The RPLO should have the lessor sign a waiver of restoration for all lease alterations performed by the lessor.

A waiver is signed and dated by the lessor and should read as follows:

"The lessor waives restoration for any work done under this agreement."

10. HOLDOVER TENANCY

A holdover tenancy is the situation when a tenant of real estate continues to occupy the premises without the owner's agreement after the original lease between the landlord and the tenant has expired. The tenant is responsible for payment of the monthly rental at the existing rate and terms, which the landlord may accept without admitting the legality of the occupancy.

In GSA leases, it is imperative to notify in advance GSA of impending holdovers. RPLOs must contact GSA through the online [Del-eGate](#) system and request approval for all holdovers. The RPLO is to access USDA's Corporate Property Automated Information System (CPAIS) to obtain a Lease Status Detail Report. It is recommended that the RPLO begin lease renewal efforts 18 to 24 months before expiration. Therefore, the Lease Status Detail Report is invaluable and should be run every quarter to assess lease status.

In rare instances, standstill agreements can be used as a bridge between the lease expiration and the successful negotiation of a new lease. A Standstill Agreement is an agreement between two business entities that are contemplating entering into a transaction together and desiring to prevent one another from negotiating a similar transaction with a third party during the period of negotiations. The use of these agreements is in violation of the Competition in Contracting Act of 1984 (CICA). **Therefore, these bridge sole source actions should be regarded as a last resort.** When the procurement for an expiring lease cannot be completed prior to the end of its term or holdover provision with a new or succeeding lease, a standstill agreement may be pursued with the lessor in order to maintain Government tenancy and rent payments until a new or succeeding lease can be put into place. Legal counsel should review the document for content and legal sufficiency.

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CHAPTER 10

LEASE ADMINISTRATION

When the lease premises have been sold to a new Owner/Lessor during the term of the original lease, the following is required:

- Evidence of the transfer of the title (the best evidence is a certified copy of the deed).
- A letter from the successor-lessor assuming, approving and adopting the lease and agreeing to be bound by its terms.
- A letter from the prior lessor waiving all rights under the lease against the Government, except unpaid rents through a specified date.

When the lease premises are transferred by death of the lessor where there is no will designating a succeeding owner/lessor, a copy of the letters of administration showing the new lessor(s) is required. Upon final settlement of the estate, the rent will be paid to the new owners.

Any change of ownership should be reflected in a SLA which is executed by the Government and the new lessor.

NOTE: Legal actions involving the disposition of the premises occupied by the Government do not nullify the Government's lease contract. Responsibility rests with the lessor's successor (see [GSA Form 3517B, Item Number 3](#)).

1. CHANGE OF OWNERSHIP

- a. Stop Payment of Rent. If a change in ownership of the lease premises occurs during the term of the lease, the RPLO must negotiate a final payment with the lessor and utility company and assign a SLA for the new owner to transfer the account into the new owner's name.
- b. Request Full Information. Upon receiving notice of an ownership change, the RPLO should send a letter to the old and/or new owner requesting full information on the new owner and an assignment of the lease.
 - (1) It is the responsibility of the old and new owners to complete the Lease Assumption Agreement or a similar form and return it to the RPLO. (See [Figure 7](#))
 - (2) If the change in ownership is the result of the death of an individual owner, a copy of the will and letters of administration indicating the new owner is required.

c. Use Careful Wording and Consult with Counsel

It is important that the lease assignment and assumption in the lease agreement be worded to ensure that the original owner/lessor is not released from responsibility for obligations under the lease. Legal counsel should review the document for content and legal sufficiency.

2. RENTAL DEDUCTIONS

- a. Cure Letter. If the lessor fails to correct a performance deficiency after verbal requests, which are to be documented in the lease file, it may be necessary for the Government to exercise its right to correct the deficiency and deduct the cost of correction from the rental payment. Prior to doing this, the RPLO should send a “cure” letter to the lessor, notifying the lessor of the failure to correct and setting a date for inspection to see whether or not the work has been completed. The letter should state that unless the correction is made by the date, the Government will exercise its right, pursuant to Paragraph 15 of the General Clauses of the lease, to correct the deficiency and deduct the cost from the rental payments. The letter should be sent by certified mail, return receipt requested.
- b. Deduction Letter. If the cure letter does not result in a correction, the Government will make the correction and deduct the cost from the rent. The RPLO should send a deduction letter to the lessor, informing them of the work done and the cost that will be deducted. The letter also should advise the lessor of appeal rights. This letter should be sent by certified mail, return receipt requested. (See [Figure 8](#))
- c. Emergency Situations. If the correction needed is an emergency in which lives or Government property is endangered, as soon as the lessor fails to take action after a verbal request from the Government the cure letter can be omitted and the Government can have the necessary work done and send a deduction letter to the lessor. In this event, the verbal request should be fully documented and the beginning paragraphs of the deduction letter should be modified to include the following:
 - i. An explanation of why the performance failure constituted an emergency requiring immediate corrective action.
 - ii. A summary of the verbal request made to the lessor or unsuccessful attempts by the Government to contact the lessor to make the request.

3. RENTAL ADJUSTMENTS

Adjustments in rental payments for any reason must be based on a provision of the lease or a SLA that describes the conditions under which an adjustment can be made and how the adjustment is to be calculated. In every case, the RPLO must follow the procedures agreed to in the lease provisions.

- a. Increase in Operating Costs. One of the most common adjustments in rent is the increase to allow the lessor to maintain income for increased operating costs such as cleaning service, supplies, utilities and maintenance. This adjustment is based on an escalation clause in the lease. This clause will also provide for a corresponding decrease in rent if operating costs should decrease.
 - i. Consumer Price Index. The escalation clause in a lease uses the Consumer Price Index amount published by the U.S. Department of Labor to determine the change in the cost of living index that will trigger a rental increase or decrease. The percentage of change in the index is applied to the base operating costs to determine the revised rental rate. The base operating costs must be established prior to award and be stated in the lease. The base operating costs include all services and utilities furnished by the landlord.
 - ii. Adjustment Effective on Anniversary Date. The rent payment adjustments under the escalation clause will be effective on the anniversary date of the lease, beginning with the second year of the lease and for each year thereafter.
 - iii. Adjustments in Operating Costs. The rent adjustment for operating costs will be based on the index amount published for the month prior to the lease commencement as compared to the index published for the month prior to the anniversary date. For example, for a lease that commenced in July 2009 we will use the index published for June 2010 and June 2011, etc., to determine the percentage change. The new/revised adjustment rental rate will be effective on the anniversary date of the lease and will be reflected in the next monthly payment.
- b. Tax Adjustments. If there is a tax adjustment clause in the lease, the Government will pay additional rent for its share of the tax increases or have the rent reduced by its share of any tax decrease.

The Government's share of any tax change will be based on the percentage change of the rent of the building space that the Government occupies. The percentage should be established prior to award to preclude any disagreements; it represents the ratio between the square feet occupied by the Government to the total rentable square feet in the building.

The adjustment will be calculated on the difference between taxes paid for the calendar year in which the lease commences (base year) and the current year. The share will be paid in a lump sum that becomes due on the first work day of the month after tax receipts for both years are presented or on the anniversary date of the lease, whichever is later. Use the most recent date for calculating the change.

- c. Assignment of Rents. During the term of the lease, the lessor may ask the right to receive rental payments under the lease to a third party or to a financial institution. The assignment of this right does not affect the obligations of the lessor under the lease or change the relationship of the parties except merely an administrative change in the

location and/or name of the payee. The assignment is made for the convenience of the lessor and should not impose an additional burden or expense on the Government.

The Government should not make changes in the method, place or recipient of the rent payment until the lessor has executed a written assignment authorizing and directing the Government to make rental payments to the designated person or entity, in lieu of making payments to the lessor. The RPLO should exercise caution that the assignment is executed by a properly authorized officer if the lessor is a corporation and that the payee's name and the location of the payments are clear and unambiguous. If there is any confusion about these matters, withhold payments until the matter is clarified.

4. DISPUTES

- a. Disputes Clause. Disputes that arise under the lease regarding the performance or non-performance by either party are resolved according to the Disputes Clause of the lease. These procedures are prescribed by [41 USC 601-613, Contracts Dispute Act of 1978](#). The clause requires that claims be in writing and the RPLO render a written decision that is final unless the contractor appeals or files a law suit.
- b. Verbal Commitments Cannot be Honored. In attempting to resolve any dispute, the RPLO is reminded that verbal commitments made during discussions of the dispute or during any stage of the lease negotiations cannot be honored. Only those terms contained in a written agreement are binding on either party.

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CHAPTER 11

SIMPLIFIED LEASE ACQUISITION PROCEDURES

1. BACKGROUND

The [Federal Acquisition Streamlining Act of 1994 \(FASA\)](#) contains provisions that permit streamlined procedures for leasing actions. Under this Act and in accordance with the implementing guidance provided by [GSA Acquisition Letter V-09-03](#) and [GSAM 570.2, Simplified Lease Acquisition Procedures](#). The Simplified Lease Acquisition Threshold (SLAT) for leasing is \$100,000 annual rental, net utilities

The simplified lease acquisition process is intended to be less formal than the standard lease acquisition with much work handled by telephone, on-site visits and email. These procedures reduce administrative costs, while improving efficiency, when acquiring small leasehold interests in real property.

2. APPLICATION FOR THE SLAT

When a lease is not expected to exceed the SLAT, the following conditions apply:

- a. The RPLO is to solicit at least three sources to promote competition to the maximum extent practicable. If the RPLO has repeated requirements for space in the same market, if practicable the RPLO should invite two sources not included in the most recent solicitation to submit offers. If there is only one source, document the file to explain the lack of competition. If the RPLO determines that circumstances exist which support other than maximum competition, the RPLO must document the lease file with the reasons for their conclusions.
- b. Sources not solicited which express an interest in the leasing action must be considered if they meet the requirements.
- c. When there are repeated leasing actions in the same market, full competition must be sought each time from as many sources as possible.

Other Conditions:

- a. [Newspaper Advertisements](#). Newspaper advertisements are required if the square footage exceeds 10,000 SF. Other circumstances when publicizing are not required as described in [FAR 5.202, Synopses of Proposed Contract Actions](#).
- b. [Current Market Conditions](#). Current market information must be obtained and documented for all leasing actions. However, on-site inspection of available properties

during the market survey is no longer mandatory because of the detailed information and data that is accessible from available sources such as GSA, local government, private sector real estate firms, brokers, multiple listing services, on-line services, etc., to identify locations that will meet the Government's minimum requirements. If use of a form is necessary for a leasing action, the [GSA Form 3627, Market Survey](#), may be used.

- c. Independent Government Estimates. Independent Government Estimates (IGEs) are not required for the above standard, lump-sum alterations in competitive lease actions where the alterations are included in the price evaluation of offers, or for unit cost for adjustments if market data is available to determine that unit costs are fair and reasonable.
- d. Negotiation Objectives/Price Negotiation Record. RPLOs should develop specific written negotiation objectives involving a minimum and maximum target position prior to negotiations. These negotiation objectives should be developed based on current market information, appraisal data (if available) and the technical knowledge of the RPLO. These negotiation objectives should be included as part of the lease file.

A record of price negotiations must be maintained for the lease file; however, a formal PNM is not required. The written records should include a brief discussion of the negotiation objectives, a succinct abstract of offers, the results of the negotiations, the rationale for the award decision and informal attachments as required. Negotiations may be recorded on the [GSA Form 3628, Lease Action Summary](#).

- e. Pre-Award Documentation. Appraisals are not required for leases that use the simplified lease acquisition process. However, the RPLO must ensure market data is available (cost or price analysis) to evaluate the price and document the lease file to demonstrate that the proposed contract rental represents a fair market price. Furthermore, in cases with a total contract value more than \$500,000 and where there is not competition or market data to support an exemption to the requirement to obtain cost and pricing data, the RPLO may decide to obtain an appraisal to support an exemption instead of obtaining cost or pricing data.
- f. Continuing Space Requirement. For succeeding leases, superseding leases and lease extensions, when the cost of a succeeding lease for the continued occupancy of space, superseding lease or extension does not exceed the SLAT, the RPLO may use the simplified lease acquisition procedures and document the reasons for the absence of competition in the lease file. **These actions are contingent upon request and approval from GSA.**

- g. Expansion. When an expansion requirement is determined to be within the general scope of the lease, the space may be acquired through a SLA without further documentation.
These actions are contingent upon request and approval from GSA.

For more information on the [SLAT](#), please see the hyperlinked website.

- END -

FIGURE 1

SAMPLE NEEDS ANALYSIS WORKSHEET

Sample Needs Analysis Worksheet - Space, People, Rent

1 What event is driving this new requirement for real estate?

Lease expiration	_____
Facility obsolescence	_____
Expansion	_____
Consolidation	_____
Employees	_____

2 Type of facility

	Yes	No
Branch office	_____	_____
Regional office	_____	_____
Sales office	_____	_____
Warehouse space	_____	_____
Distribution space	_____	_____
Lab space	_____	_____
Other	_____	_____

		Current	Proposed
3 Employees	Full time	_____	_____
	Part time	_____	_____

4 Personnel per shift (if applicable) _____

5 Amount of space	sq. ft.	sq. ft.
	sq. ft.	sq. ft.
	sq. ft.	sq. ft.

6 Storage requirements (describe) _____

7 Current lease expiration _____

	Current	Proposed
8 Lease extension options	_____	_____
	_____	_____
	_____	_____

9 Rent	Base rent	_____	_____
	Utilities	_____	_____
	Janitorial	_____	_____
	Real estate taxes	_____	_____
	Insurance	_____	_____
	CAM	_____	_____

10 Proposed lease term _____

Have you reviewed your existing lease? _____

What is driving your geographic decisions (i.e. proximity to other gov't facility, airport, labor, etc.)?

Notes - Describe Equipment Needs

Sample Needs Analysis Worksheet - Utilities and Systems

	<u>Current Space</u>	<u>Proposed Space</u>
What base building power is available?		
120/208 volt		
480 volt		
What base building amperage is available at your space?		
What base building amperage is needed?		

	check one		<u>Comments</u>
	Yes	No	
Is your current space fully airconditioned?			
Is there a portion of your space that does not need to be airconditioned?			
Will you require specialized manufacturing space or storage space?			
Will you relocate or purchase a new phone system?			
Telephone/communication lines needed			
T1			
Fiber			
Other -			

What are your network Cabling needs?

What are your telephone cabling needs?

What are your security requirements?

Sample Needs Analysis Worksheet - Equipment

[illegible]

Are there interim/swing equipment needs? (describe) _____

Notes - Describe Equipment Needs

FIGURE 2

SAMPLE SFO MATRIX



Proposal Matrix: The LEGALNAME Building, CITY, STATE, Zip								
Request For Proposal		Proposal (Landlord's Response)			GRADING SCALE	PRIORITY SCALE	FINAL METRIC	
								
RESPONSE	Tenant Alterations Allowance - Tenant shall require an additional allowance at the end of the fifth (5th) lease year of \$5.00 per square foot to be provided by Landlord, and drawn down over the course of the remaining five (5) years of the lease, for tenant alterations which may occur over the balance of the term.	19(b)	Accepted	YES/NO		10	5	50
	Alterations - Tenant shall be permitted to make any changes under \$25,000 without Landlord consent. There shall be no charge by Landlord for the review of plans or any inspections that Landlord deems necessary with regard to future alterations. Tenant shall provide Landlord with its plans for Landlord's review and approval for all alterations over \$25,000, which consent shall not be unreasonably withheld or delayed. No variations or alterations on the work to be provided by the Landlord shall be made by the Landlord if it has an impact on the budget or the completion schedule without the prior written consent of the Tenant. Landlord agrees to provide written consent, or non-consent stating the reasons for such non-consent, within 10 days of receiving written request from Tenant. Further, Landlord agrees to execute all required permit forms upon the submission of plans by Tenant.	19(d)	Accepted	YES/NO		10	6	60
	Alteration Fee - Landlord shall not charge any supervisory fees, surcharges, or any other charges in connection with Tenant's initial alterations or any subsequent alterations during the Lease Term, including, but not limited to, charges for temporary power, lights and freight elevators, nor any tap in charges for connecting supplemental air conditioning, sprinklers, etc. that are required for construction of the Premises. Please advise of any and all covenants regarding design or construction.	19(e)	Accepted	YES/NO		1	5	5
	Move-in - Tenant shall not be charged for the use of elevators or hoists during construction of Tenant Improvements and Tenant actual move into the building. Tenant will not be charged for the disposal of packing boxes and related materials during move in.	19(g)	Accepted	YES/NO		1	6	6
	Brokerage - USDA's tenant representative relative to this requirement is _____, Landlord agrees to pay a leasing commission to Tenant Representative as agreed under separate agreement.	19(g)	Accepted	YES/NO		1	6	6
	Please provide the following by close of business on (DATE) to the offices of:	20						
	Three copies for the original proposal.		Received	YES/NO				
	Two(2) copies of a sample lease document with the cleaning specs		Received	YES/NO				
	Two(2) copies of the proposed floors plans		Received	YES/NO				
	CONFIDENTIALITY	This proposal and all discussions related thereto shall be held in confidence by Landlord and Tenant and will not be discussed with third parties except on an "as needed" basis (e.g., attorneys). This solicitation is not an offer to lease and is not to be construed in any manner as an obligation on the part of USDA to enter into a contract with any offeror or result in any claim for reimbursement of costs incurred to respond to this solicitation.	21	Accepted	YES/NO			
GRADING RESULT	GRADING METRIC						59.38	

FIGURE 3

SAMPLE SFO FINANCIAL MATRIX

ASSUMPTIONS Building A Building B Building C			
<i>Demised Premises RSF</i>	250,000	234,060	252,325
<i>Core Factor</i>	12.00%	13.27%	12.00%
<i>Usable Sq Ft USF</i>	220,000	210,806	222,046
<i>Initial Term Years</i>	15	15	15
<i>Base Rent PSF</i>	\$18.56	\$18.65	\$18.69
<i>Possession</i>	1/0/1900	1/0/1900	1/0/1900
<i>Rent Commencement</i>	1/0/1900	1/0/1900	1/0/1900
<i>Base Rent Escalation PA</i>	3.0%	3.0%	3.0%
<i>Operating Expenses PSF</i>	\$9.29	\$9.29	\$9.29
<i>TI Allowance PSF</i>	\$75.00	\$75.00	\$75.00
<i>Amortized TI Pmt PSF</i>	\$9.30	\$9.30	\$9.30
<i>Required TI Amt PSF</i>	\$75.00	\$75.00	\$75.00
<i>TI Delta PSF</i>	\$0.00	\$0.00	\$0.00
<i>Landlord CM Fee PSF</i>	\$0.00	\$0.00	\$0.00
<i>Const Operating Expenses PSF</i>	\$0.00	\$0.00	\$0.00
<i>Test Fit Allowance PSF</i>	\$0.10	\$0.10	\$0.10
<i>Security Deposit PSF</i>	\$0.00	\$0.00	\$0.00
<i>Refurbishment Allowance PSF</i>	\$7.50	\$7.50	\$7.50
<i>Amortized Refurb Allowance PSF</i>	\$0.00	\$0.00	\$0.00
<i>Inflation PA</i>	2.0%	2.0%	2.0%
<i>Discount Rate PA</i>	8.0%	8.0%	8.0%
Total Rent 159,454,482 149,679,458 161,547,495 NPV 88,382,037 82,961,187 89,537,828 Avg PRSF \$42.52 \$42.63 \$42.68			

FIGURE 4

SAMPLE OPERATING EXPENSE AND REAL ESTATE TAX INDEX

OPERATING EXPENSE & REAL ESTATE TAX BASE YEAR INDEX Below is a complete line item description of all items that comprise the Operating Expense & Real Estate Tax Base Year index, defined as the twelve months following Rent Commencement. Included is the dollar value of all items so that by subtracting the sum of these values from the Base Year Rent, the difference will yield the Net Component.			
Labor		Annual	PSF
513030	Labor Bldg Systems	136,680	0.58
513012	Labor - Grounds	14,640	0.06
513014	Labor Maintenance	24,480	0.10
513017	Labor Administrative-Office	24,480	0.10
513099	Direct Labor Overhead-Supervision	60,800	0.26
Supplies			
513020	Supplies Bldg Systems	22,005	0.09
513022	Supplies Grounds	2500	0.01
513024	Supplies Maintenance	2500	0.01
Services			
513030	Services Bldg Systems	65,272	0.28
513031	Services Custodial	318,292	1.36
513032	Services Grounds	17,926	0.08
513033	Services Supervisory-Security	24,160	0.10
513034	Services Maintenance	100,356	0.43

Insurance			
513037	Insurance	53,411	0.23
RE tax			
513038	Real Estate Tax	603,875	2.58
Utilities			
513050	Gas	80,685	0.34
513032	Electricity	344,745	1.47
513053	Water & Sewer	19,560	0.08
513054	Utility Consult Svcs	1,632	0.01
Property Management Fees			
518000	Property Management Fee	257,466	1.10
	Total Op Expenses	2,175,465	9.29 PSF

[FIGURE 5](#)

SAMPLE TENANTS QUICK CHECKLIST OF LEASE POINTS

Lease Points	Check Points	Verified
Parties	Landlord	
	Legal Identity	
Premises	Accurate description of premises, including street address, floor, suite number, etc.	
	Square footage	
	Measurement standard (i.e., BOMA standard)	
	Floor load	
	Rentable and usable area in demised premise	
Rent-Term	Total/Annual	
	PSF basis	
	Term in years	
	Taxes	
	Additional rent increases (i.e., escalation, common area charges)	
	Formulas for calculating rent and additional rent, etc.	
Payment	Address where payment should be sent	
	Amount	
	Formulas for calculations	
	Payment terms	

	Security deposit	
	Interest and penalties	
	Additional rent and payment terms	
	Setoff in lease	
	Letters of credit	
Commencement	Definition	
	Effective date	
	Free Rent	
	No Commencement until Tenant occupies	
	Termination date	
	Triggering, postponing or extending events and remedies associated with these events	
Construction	Work allowance	
	Landlord work	
	Tenant work	
	Landlord representations: good and worker-like manner	
	Certificate of Occupancy date	
	Tenant right to cancel if not complete	
	Tenant right to fees if Landlord fails to complete	
	Punch list	
	Schedule	
	Plans and specifications	

	Delays	
	Remedies	
	Effect on obligation to payment	
Use	General use/lawful use	
	Specific uses	
	Landlord representations re: zoning	
	Limitations, changes and exclusions	
	Exclusive use	
	Successor tenant rights to continue use	
	Security	
Taxes	Definition	
	Base	
	Exclusions	
	Proportionate share	
	Landlord to send paid tax receipts	
	Tenant dispute and audit rights	
	Proportion of costs beginning/end of term	
	Tenant not obligated to pay penalties or interest	
	Tenant will benefit from tax decrease	
	Landlord representations not to collect more than 100% of tax liability	
	Certiorari rights	

Operating Expenses	Definition	
	Base	
	Exclusions	
	O/E passed through benefits all tenants	
	Dispute and audit rights	
	Tenant will benefit when O/E decreases	
Alterations	Tenant right to alter	
	Landlord consent not unreasonably withheld	
	Responsibilities for end of term removal spelled out	
	Tenant right to select General Contractor and subcontractors	
	Tenant "fast track" rights	
	Obligations to make improvements or repairs	
	Restoration	
Utilities and Service	Electricity-capacity and charges	
	Gas	
	HVAC services and specifications	
	Cleaning and janitorial schedule	
	Time periods and industry business days	
	Rent abatement if Landlord fails to provide	
	No waiver of constructive eviction right	
	Communication wiring-telephone, wireless and ISP	

After Hours Services and Access	Definition	
	Provided at Landlord cost	
Repairs and Upkeep; Compliance with Laws	Landlord responsibility for Building, Project, parking lots	
	Limited Tenant responsibility	
	Self-help rights	
	Landlord periodic painting and repairing	
	Preexisting conditions, capital improvements, replacements, betterments; structural	
Access to Premises	Definition	
	Limits on Landlord rights	
	No waiver of constructive eviction	
Signage	Definition	
	Locations	
	Outside	
	Exterior walls	
	Interior walls	
	Listings	
	Elevation	
Satellite Dish	Tenant rights	
	Location	
	No cost	

	Landlord relocates interfering dishes	
Exclusivity (Optional)	Landlord covenants	
	Tenant rights on breach	
	Landlord covenants to enforce	
	Rights run to successors and assigns	
	Severability Clause	
Parking (Optional)	Tenant parking rights	
	Number of spaces	
	Landlord looks to Tenant employees for payment	
	Exclusive spaces	
Assignment and Subletting	Rights to assign to successor or sublet premises	
	Tenant released from lease	
	If sharing of profits, then deduction for broker, construction expenses	
	All other transfers-Landlord consent will not be unreasonably withheld	
	Criteria for assignment and subletting	
	Limitations and restrictions	
Quiet Enjoyment	Definition	
	Warranties	
	Conditions and limitations	
Options	Cancellation of lease or puts	
	Expansion space	

	Time	
	Notice	
	Rent	
	Work allowance	
	Remedies if Landlord violates Renewal	
	Term	
	Price (percentage of market); Fair market defined	

FIGURE 6

SAMPLE MOVE-IN TIMELINES AND CHECKLISTS

The following moving timeline will guide the flow of activities preceding and during a move:

Selecting a Mover and Preparing for Moving Day:

Time Line	Action	Done
4 months	Inventory furniture and equipment, identifying items to be moved.	
3 months	Research moving companies.	
	Schedule movers to perform a site visit of existing offices.	
	Have movers prepare quotes.	
	Review bids and check references.	
2 months	Have the mover call both buildings to determine insurance requirements.	
	Reserve docks and freight elevators in both buildings for the move.	
1 month	Verify insurance certificates have been received by Property Manager.	
2 weeks	Prepare a moving agenda and deliver to all employees.	
1 week	Schedule a walk through with mover to identify any existing damage to furniture or walls.	

Moving Computers and Network Equipment:

Time Line	Action	Done
3 months	Determine whether any computer equipment needs to be upgraded.	
	If new equipment is required, make arrangements to interview vendors and begin the selection process.	
2 months	Contact your computer equipment vendor to discuss relocation of system and network requirements.	

1 month	Schedule your computer/LAN consultant to shut down and restore the computer system/LAN as soon as possible after the move.	
1 day	Back up all data.	
	Require employees using PCs to back up their own equipment.	

Moving Telecommunications Systems:

Time Line	Action	Done
3 months	Identify telecommunications system usage and future needs.	
	Consider whether to move the existing phone system or purchase new. If purchasing new system, select three vendors to interview and submit proposals. (Check with landlord for shared telecommunications services.)	
	Review proposals and select vendors.	
	Have representatives from voice and data cabling companies review the space and tour the new facility to determine needs.	
2 months	Select voice and data cabling vendor, and schedule installation. Release cabling contractor to coordinate activity with the general contractor.	
1 month	Make arrangements for phones to be operational on moving day. Decide whether phones will need to be forwarded to temporary or home offices during actual move.	
	Begin installation of voice and data cabling. Have cabling vendor coordinate installation with the landlord and the landlord's contractor.	
2 weeks	Hold training sessions for employees to learn the new phone system.	

Moving General Office Equipment:

Time Line	Action	Done
3 months	Designate an Office Equipment Coordinator.	

	Determine whether any general office equipment needs to be upgraded or replaced.	
	If new equipment is required, make arrangements to interview vendors and begin the selection process.	
2 months	Contact your copier vendor to schedule removal of toner and determine whether they would prefer to move their own equipment.	
Day of	Take delivery of copier, if it is moved by the copier vendor.	

Moving Systems Furniture:

Time Line	Action	Done
4 months	Determine if you need to purchase new furniture and/or systems.	
	Select vendors to interview, evaluate product lines and review budgetary requirements.	
3 months	Select a furniture vendor and request an office layout from them.	
	Place your order with the furniture vendor.	
2 months	Schedule disassembly and reassembly of existing systems furniture through the vendor or his recommended contractor.	
1 month	Schedule delivery and assembly of new systems furniture before moving day.	

Action Checklist for Miscellaneous Moving Issues

Time Line	Action	Done
3 months	Finalize space plans and construction documents.	
	Finalize move date with existing and new buildings and general contractor.	
	Release general contractor to start construction.	
	Designate an internal office “Leader” to coordinate the Move Team.	
	Assign responsibilities to the Move Team.	

	• Identify Departmental Move Coordinators.	
	• Identify IT Coordinator.	
	• Identify Office Equipment Coordinator.	
	• Identify Budget Coordinator.	
	Verify security options and choose a security contractor.	
2 months	Provide notice to both current and new landlords, including exact days and times of move.	
	Assign new phone numbers (if required).	
	Order office signage.	
	Finalize information for the building directory with new landlord.	
	Purge files and archive old files.	
	Prepare press releases and move announcements.	
	Meet with employees to update them on the move.	
	Verify keying requirements with general contractor and landlord.	
1 month	Notify customers, vendors and associates of your upcoming move.	
	Contact the utility companies for both current and new locations.	
	Order new stationery and business cards.	
	Contact suppliers of vending equipment, water and coffee services and copiers to coordinate relocation of equipment.	
	Continue to purge files and clean.	
	Meet with employees to update them on the move.	
	Finalize who will be at current and new locations during the move.	

	Finalize the disposal of old furniture and equipment.	
2 weeks	Prepare a moving agenda and deliver to all employees. Include:	
	• Packing and unpacking schedules.	
	• Moving dates and times.	
	• Information about “Lost and Found”.	
	• Information about Help Desk.	
	• Office phone arrangements during the move.	
1 week	Meet with employees to review packing instructions provided by the mover.	
	Begin packing.	
	Assign responsibilities to employees for packing of common areas.	
	Finalize exact times for the relocation of existing computer equipment during the move.	
	Pack artwork and fragile items per mover’s instructions.	
	Obtain office keys from the general contractor.	
	Walk through the new space and finalize the punch list.	
	Finalize installation of new furniture.	
	Notify the post office and complete forms to forward mail.	
	Make office signs to identify areas and office for the moving crew.	
	Meet with employees to update them on the move.	
	Assemble a list of emergency contacts for the move.	
	Arrange for the cleaning of the current office following the move.	

Day of	Conduct a final meeting with employees to answer any questions.	
	Walk through the existing space to confirm that all packing is complete.	
	Issue office keys and security cards to employees.	
	Designate a “Lost and Found” at the new location.	
	Establish a Help Desk. Have all requests go to this one designated spot.	
	Have Coordinators available to answer questions during the move.	
	Walk through the vacated office to confirm everything was moved.	
	Conduct a final inspection of the vacated office.	

FIGURE 7

SAMPLE LEASE ASSUMPTION AGREEMENT

TRANSMITTAL LETTER TO OLD/NEW LESSOR

Name:

Address:

With reference to Lease Number provide USDA lease number, located at provide street address, we have been advised of the impending sale of the provide description of facility/building property. Enclosed is a form which sets forth the information required from both the present and the new owner.

The Government will make the necessary changes in contract and payment records after all of the information and documentation is submitted. It is therefore important to respond expeditiously for a prompt change in the destination of rental payments.

Sincerely,

Real Property Leasing Officer/Contracting Officer

Enclosures

LEASE ASSUMPTION AGREEMENT

THIS AGREEMENT entered into by and between

_____, Hereinafter called
“Transferor” _____ hereinafter called “Transferee”, and the
United States of America, acting by and through the Secretary of Agriculture, hereinafter called
the “Government”,

WITNESSETH:

WHEREAS, the Transferor and the Government have heretofore entered into a certain
lease, Number _____, dated _____, as amended by the
following: Supplemental Agreement Number _____, dated
_____, etc., whereby the Transferor leases to the Government certain real
property more particularly described as follows:

Which lease as amended is hereinafter referred to as the “Lease”; and

WHEREAS, the Transferor has sold the leased property to the Transferee and has
assigned to the Transferee all the Transferor’s rights under the Lease; and

WHEREAS, the Transferee has assumed all the Transferor’s obligation under the Lease;
and

WHEREAS, evidence of the transfer of the property and the assignment have been
furnished to the Government.

NOW, therefore, in consideration of the promises, the parties hereto mutually agree as
follows:

1. The Transferor hereby confirms said assignment, conveyance and transfer to the Transferee, and does hereby release and discharge the Government from, and does hereby release and discharge the Government from, and does hereby waive, and claims, demands and rights against the Government which it now has or may hereafter have in connection with the lease.
2. The Transferee hereby assumes, agrees to be bound by, and undertakes to perform each and every one of the terms, covenants, and conditions contained in the Lease. The Transferee further assumes all obligations and liabilities of, and all claims and demands against the Transferee under the Lease, in all respects as if the Transferee were the original party to the Lease.
3. The Transferee hereby ratifies and confirms all actions heretofore taken by the Transferor with respect to the Lease with the same force and effect as if they action had been taken by Transferee.

4. The Government hereby recognizes the Transferee as the Transferor's successor in interest in and to the Lease. The Transferee hereby becomes entitled to all rights, title, and interest of the Transferor in and to the Lease in all respects as if the Transferee were the original party to the Lease. The term "lessor" as used in the Lease shall be deemed to refer to the Transferee rather than the Transferor.
5. Except as expressly provided therein, nothing in this Agreement shall be construed as a waiver of any rights of the Government against the Transferor.
6. Notwithstanding the foregoing provision, all payments and reimbursements heretofore made by the Government to the Transferor and all other action heretofore taken by the Government, pursuant to its obligations under the Lease, shall be deemed to have discharged *pro tanto* the Government's obligations under the Lease. All payments and reimbursements made by the Government after the effective date of this agreement in the name of or to the Transferor shall have the same force and effect as if made to said Transferee and shall constitute a complete discharge of the Government's obligations under the Lease to the extent of the amount do paid or reimbursed.
7. The Transferor hereby guarantees payment of all liabilities and the performance of all obligations which the Transferee (1) assumes under the Agreement, or (2) may hereafter undertake under the Lease as they may hereafter be amended or modified; and the Transferor hereby waives notice of and consents to any such amendment or modifications.
8. Except as herein modified, the Lease shall remain in full force and effect:

IN WITNESS WHEREOF, each of the parties hereby have executed this Agreement effective

_____.

Payee's
Name and Address

UNITED STATES OF AMERICA

Agency:_____

By:_____

Telephone Number

(Signature) TRANSFEROR

Social Security or Employee
ID Number

(Signature) TRANSFEE

NEW OWNER INFORMATION SHEET

1. (a) Attach certified copy of Deed transferring title and/or a fully signed and certified copy of agreement of the sale.

(b) In the event of change of ownership due to death of owner, please submit a copy of the will or letters of administration.

2. (a) If a partnership, list all partners, general partners, limited partners, and addresses.

(b) If a corporation, list all corporation officers, titles, and addresses (attached a copy of corporate resolution authorizing ownership and designating who may act or sign behalf of a corporation).

3. IRS Identification Number: _____

4. Name of Payee and address for rental payments.

5. Manager or day-to-day contact person.

Name:

Address:

Phone Number:

Authorized Signature (Owner): _____

Date: _____

FIGURE 8

SAMPLE DEDUCTION LETTER

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Date:
Lessor's Name:
Lessor's Address:

Dear _____:

As per letter dated _____ (copy attached), you were advised that unless you take action to correct deficiencies in the space leased by (agency) located at Building Name and Address, Lease Number by _____, the Government will exercise its right to correct the deficiencies and deduct the cost from rental payments, pursuant to Paragraph 15, of the General Provisions of the lease.

The premises were inspected on _____, and the deficiency has not been corrected. I have taken the necessary action at a total cost of \$_____. A breakdown of these costs is attached. Therefore, I have authorized the deduction of that amount for the future rental payment.

This is the final decision of the Real Property Leasing Officer/Contracting Officer

Under the Contracts and Disputes act of 1978, the decision of the Contracting Officer shall be final and conclusive unless appealed or action is brought in the U.S. Claims Court as indicated herein. The decision may be appealed to the General Services Administration's Board of Contract Appeals (GSBCA) located at 1800 F Street, N.W., Washington, DC 20405 or <http://www.gsbca.gsa.gov/>. If you decided to make such an appeal, you must or otherwise furnish written notice thereof to the USBCA within ninety (90) days from the date you received this decision. A copy thereof shall be furnished to the Contracting Officer from whose decision the appeal is taken. The Notice of Appeal, which is to be signed by you as the contractor or by an attorney acting on your behalf and which must be in letter form, should indicate that an appeal is intended, should refer to this decision and should identify the contact item by number. The Notice of Appeal should include a statement of the reasons why the decision is considered to be erroneous. In lieu of appealing to the GSBCA, you may bring action directly to the U.S. Claims Court, within 12 months of the date you receive this decision.

You are advised that you may, at your sole discretion, proceed under the small claims procedure where the amount of dispute resulting from the final decision is \$10,000 or less. In like manner and at your sole discretion, an accelerated procedure is available before the GSBCA where the amount in dispute resulting from the final decision is \$50,000 or less

Sincerely,

Real Property Leasing Office/Contracting Officer

Attachments

APPENDIX A

ABBREVIATIONS

ABA	Architectural Barriers Act
ABAAS	Architectural Barriers Act Accessibility Standards
ABOA	ANSI-BOMA Office Area Square Feet
AGPMR	Agriculture Property Management Regulations
ANSI-BOMA	American National Standards Institute-Building Owners and Managers Association
ARRA	American Reinvestment and Recovery Act
ATBCB	Architectural and Transportation Barriers Compliance Board
BAFO	Best and Final Offer
CBA	Commercial Business Area
CBD	Commercial Business District
CFR	Code of Federal Regulations
CICA	Competition in Contracting Act
CPAIS	Corporate Property Automated Information System
CPI	Consumer Price Index
EISA	Energy Independence and Security Act of 2007
EO	Executive Order
EPA	Environmental Protection Agency
ES	Energy Star

ETF	Electronic Funds Transfer
FEDBIZOPPS	Federal Business Opportunities
FMR	Federal Management Regulations
FPMR	Federal Property Management Regulations
GSA	General Services Administration
GSAM	General Services Administration Acquisition Manual
GSAR	General Services Administration Acquisition Regulations
GAO	Government Accounting Office
HRPLA	Head of Real Property Leasing Activity
HVAC	Heating, Ventilation, and Air Conditioning
IGE	Independent Government Estimate
LEED	Leadership in Energy and Environment Design
MLS	Multiple Listing Service
NEPA	National Environmental Policy Act
OGC	Office of General Counsel
OPPM	Office of Procurement and Property Management
OSHA	Occupational Safety and Health
OTFO	Other Than Full and Open Competition
PCBs	Polychlorinated Biphenyls
PL	Public Law
PNM	Price Negotiation Memorandum
PVA	Present Value Analysis
RPLO	Real Property Leasing Officer

RSF	Rentable Square Feet
RSL	Realty Services Letter
R/U factor	Rate of Utilization
SAT	Simplified Acquisition Threshold
SF	Square Feet
SF 81	Standard Form 81
SFO	Solicitation for Offers
SLA	Supplemental Lease Agreement
SLAT	Simplified Lease Acquisition Threshold
TINA	Truth in Negotiations Act
UR	Utilization Rate
US	United States
USC	United States Code
USF	Usable Square Feet
USGBC	United States Green Building Council

APPENDIX B

GLOSSARY

Abatement. A reduction or decrease: Usually applies to the forgiveness of rent or a decrease of assessed valuation of ad valorem taxes after the assessment and levy.

Above Building Standard. “Specialized” design and engineering services and all construction necessary to personalize tenant space. Use of products and finishes of a higher quality than the standard provided by Landlord.

Absolute Net Lease. (see triple net) A lease in which the tenant has agreed to pay the landlord (or owner) a basic rent. This amount usually covers debt service (mortgage, principal, and interest) and a profit for the landlord. Tenant also agrees to be responsible and separately pay for all maintenance, operating, and other expenses of the building and/or office suite. These separate items would include utilities (electric, water, gas), all building maintenance, operating expenses (HVAC, elevator contracts, etc.), janitorial services, real estate taxes, insurance premiums, etc.

Absorption. The rate at which land or buildings will be sold or leased in the marketplace during a predetermined period of time, usually a month or a year. Also called “Market Absorption”.

Absorption Rate. A number usually expressed as the amount of total square feet (but sometimes as a percentage of the total amount of space that was vacant) of office space that has been put under a lease (not necessarily occupied) between two periods of time.

Acoustical Tile. Any tile having the inherent property to absorb sound.

Acts of God. Event beyond human control that delays or cancel a promise to perform a specified obligation. Examples of “Acts of God” are hurricanes, tornadoes, blizzards, floods, etc. *See also:* “Force Majeure.”

Addendum. An addition, attachment, or amendment to a lease. When properly initialed, signed and/or attached to the lease document becomes a legally binding part of the lease.

Additional Rent. (1) the amount of increased rent over the initial base rent due to any rent escalation provisions; (2) The operating expenses over and above either those specified in a base year or an expense stop.

Adjacencies. A term used in space planning to describe how physically close to each other different staff or entire departments must be for an efficient work environment.

Adjustment Year. The year after the first complete lease or calendar year in which an increase in a tenant’s payment for rent and/or services (i.e. Operating expenses & Taxes) is to occur.

Ad Valorem. (According to value) Used in reference to general property tax, which is usually based on the official valuation of property.

Add-On Factor. Also considered core factor or loss factor the percentage of gross rentable square footage which is lost to the tenant's physical occupancy.

Agency. When a broker/agent is working for a landlord as the exclusive leasing agent for the building. Also, an agency exists when a broker/agent is working with an exclusive letter of representation from a tenant.

Agriculture Property Management Regulations (AGPMR). Regulatory material issued by the Department of Agriculture pertaining to the management of records, materials, supply, personal property, and the acquisition, utilization and disposal of space, facilities, and real property.

Aggregate Rent Value: Part of a financial analysis on the economic terms of a lease that imputes or provides an estimate of the total dollar value of the lease and the total dollar outlay a tenant will make or have made at various points in time, such as at the end of five or ten years. The financial analysis will take into account estimates for increases or escalations in base rent, increases in real estate taxes, increases in operating expenses, expenses for tenant improvements paid for by the tenant, credit for tenant improvements paid for by the landlord, rent abatement, plus any other dollar-valued item in the lease.

Air-handling Light Fixture: A light fixture surrounded by an opening that acts either to supply conditioned air for circulation to a room or office area or to return air for re-conditioning.

Allowance: The quantities or dollar values of materials as specified in, or in lieu of, the building standard workletter.

Allowance Over Building Shell: One of various arrangements often used for value determination of tenant improvements (finishing out office space to accommodate a tenant such as walls, doors, carpeting, etc. Often used in a yet-to-be-built building. This arrangement caps the landlord's expenditure at a fixed dollar amount over a predetermined definition of the base building shell. This arrangement is most successful when both parties agree on a detailed definition of what construction level is included in the base building. Tenants may ask for a contingency in the event the actual build-out costs are less than the allowance requiring the landlord to return the savings in the form of rent abatement or other concession.

Alter. Repair, remodel, improve, extend, or otherwise change a building.

Alterations. A lease clause restricting construction, structural or non-structural additions or improvements, or placement of fixed decorations in a tenant's office space without the written consent of the landlord. A lease may require that all tenant alterations must be done by or through the landlord's contractor.

ANSI/BOMA Usable. That portion of the gross area which is available for use by an occupant's personnel or furnishings, including ceiling-high corridors in single tenancy space (which are removable) and space which is available jointly to the various occupants of the building, such as auditoriums, health units, and Government controlled snack bars. Usable measurement is often referred to as office space and the words can be interchangeable. ANSI/BOMA usable area does not include that space in the building which is devoted to its operations and maintenance, including craft shops, gear rooms, and buildings supply storage and issue rooms.

Amenities. Any material goods, services, or intangible items that increase the comfort, attractiveness, desirability, and/or value to an office suite or an office building (for example, dry cleaning establishment, low-to-high-priced restaurants, in-building or covered parking, health club).

Amortization. The reduction of the total value of a debt by taking equal (amortized) installments over its actual life.

Appraisal. An estimate and opinion of value by an expert. (2) The act or process of estimating value; usually a written statement of the appraiser's opinion of the value of an adequately described parcel or property as of a specified date. The term includes valuations established by warranted RPLOs or Government staff appraisers, as well as by fee or contract appraisers.

Architectural Drawing(s). The working drawings that show the placement and construction detail for building out the office space, including walls, partitions, doors, lights, switches, outlets, etc. From the architectural drawings, engineers and other professionals can create the remaining construction documents such as electrical wiring diagrams.

Architecturals. A term used in lieu of “architectural drawings” or “construction documents.”

Area Building Support. That portion of the floor area that does not house the occupant’s personnel or furnishings. It consists of the mechanical, toilet, custodial, and construction area including their enclosing walls, and represents the difference between gross area and usable area.

Area Circulation. That portion of the gross area, both horizontal and vertical, which is required for physical access to the space, including lobbies, stairwells, elevator shafts, elevators, and ceiling-high corridors, which cannot be removed or to which the public has restricted access.

Area Gross. The sum of all floor areas of a building (including all stories or areas which have floor surfaces and a clear standing headroom of 6 - 1/2 feet or more), including basement (except unexcavated portions), attics, garages, roofed porches, mezzanines, loading platform, shipping platforms, penthouses, mechanical equipment rooms, floors, lobbies, and corridors. Gross area does not include open courts, light wells, upper portions of rooms, drives, ramps, etc., extending beyond the principal exterior walls of the building, or unroofed areas such as cooling towers and unenclosed portions of ground level or intermediate stories.

Area, Mechanical. That portion of the gross area designed to house mechanical equipment including boiler rooms, stacks, cooling towers, machine rooms, wire closets, telephone frame rooms, incinerator rooms, and transformer vaults.

Area Rentable. The rentable space is the area for which a tenant is charged rent. It is determined by the building owner and may vary by city or building within the same city or community. The rentable space may include a share of building support/common areas such as elevator lobbies, building corridors, and floor service areas. Floor service areas typically include restrooms, janitor rooms, telephone closets, electrical closets, and mechanical rooms. The rentable space generally does not include vertical building penetrations and their enclosing walls, such as stairs, elevator shafts, and vertical ducts. No deductions shall be made for columns and projections necessary to the building.

Assessment. The valuation of property for taxation; also the value so assigned.

Assignment: A transfer between parties of title to any property, real or personal, or of any rights or estates in the property. Common assignments include leases, mortgages and deeds of trust.

Attorn. To turn over or transfer to another money or goods. To agree to recognize new owner of a property and to pay him rent. *See also:* "Letter of Attornment".

Attornment. A lease provision whereby the tenant agrees, in advance, to accept and pay rent or other requirement payments to a new landlord or subsequent legal owner of the property.

Attorney-in-Fact, Subordination Clause. A provision of a lease subordination clause that permits the landlord to act as an attorney-in-fact for the tenant and submit on behalf of the tenant (without any further approval or permission) a certificate of subordination to a lender, trustee, or financing institution.

Available Office Space. Describes office space that is vacant and available for lease but that may or may not be ready for occupancy (as it may be under construction, needs to be built-out to a tenant's specification, or requires remodeling). The term is used both as a description and as a statistic of "office space available" at a particular time.

Average Rent Per Square Foot. Presented as part of a financial analysis on the economic terms of a lease, it represents the aggregate rent calculated to a particular point in time (i.e. five years) and adjusts this total by dividing by the number of years up to that point and the total number of square feet being leased to give the average rent per square foot.

Balanced Representation. (Full Service) A real estate firm that has brokers/agents that specialize in tenant representation and landlord representation. In some instances an agent may, over a period of time, provide service to both tenants and landlords.

Base Rent. A set amount used as a minimum rent in a lease which also employs a percentage or other allocation for additional rent.

Base Year. The year, over which a direct expense escalation of rent is based. *See also:* “Escalation Clause”.

Bay. A part of a floor or the amount of space on a floor as delineated by four major points --usually the building’s columns or window mullions. The bay is the space contained within the four columns expressed by the distances between columns. For example, if a building has columns running north/south spaced 20 feet apart and east/west spaced 15 feet apart, a bay as delineated by these four columns would be 15 feet by 20 feet.

Below-grade. Any facility or part of a facility located underground or below the surface grade, typically non-windowed space.

Beneficial Use. The time when a tenant begins to use an office space for any purpose whether to conduct business or to move furniture, fixtures, inventory, equipment or other items into place.

Best and Final Offer. This is the offer which has been modified by the owner/lessor to meet the Government's requirements. This is often referred to as a BAFO.

BOMA. The Building Owners and Managers Association (BOMA) develops private industry's most accepted standard of floor measurement for office buildings.

Broker. An individual who acts on behalf of another person as an agent to negotiate for the lease, purchase, or sale of office space, buildings, land, or any other real estate. A broker is licensed by each state (including the District of Columbia). The broker license requires passing written proficiency tests and working a minimum number of years for another broker. The broker license requires that an additional minimum number of real estate-related professional education credits be earned each year (or other specified time period). There is only one principal broker for each real estate office. All other brokers (called associate brokers) and salespersons work on behalf of the principal broker. The principal broker is the only agent empowered to receive and disburse the commissions and fees earned for a real estate transaction.

Brokerage. Providing an individual to act on behalf of another person as agent to locate and negotiate for the purchase, sale or lease of real estate. A broker performs a unique service of matching a purchaser and seller or real estate and in effect is the catalyst that makes a real estate transaction happen. Also, brokerage is the term for the fee or commission paid to a broker at the conclusion of a real estate transaction.

Broom Clean. Refers to the delivery of the office space to the landlord at lease expiration date in the same condition it was delivered to the tenant at lease commencement date with the exception of normal wear and tear.

Building Classifications. **Class A** – Building has excellent location and access to attract the highest quality tenants. Building must be of superior construction and finish, relatively new or competitive with new buildings, and providing professional on-site management. **Class B** – Building with good location, management, construction and tenancy. Can compete at low end of Class A. **Class C** – Generally an older building with growing functional and/or economic obsolescence. **Functionally obsolete** – An older building in need of extensive renovation as a result of functional obsolescence or deterioration.

Building Code. Locally adopted ordinance or regulation, controlling the design, construction, alteration, repair, quality of materials, use and occupancy, and related factors of any building or structure within its jurisdiction.

Building Code Historic. A building given preference under the terms of the Public Buildings Cooperative Use Act of 1976 when leased space is acquired using leasing authority delegated by GSA.

Building Core. When used in conjunction with the term “Common Space” or “Common Area” denotes those areas of the building that are apportioned to each tenant as part of the total rentable square feet for an office suite. These areas typically include the restrooms, lobbies, elevator shafts and fire stairwells.

Building Engineer. A licensed professional engineer hired to operate, maintain and repair a building’s services and equipment.

Building Envelope. A building’s outside surfaces and dimensions. Also called “Building Skin: or “Facade”.

Building Inspector. A local government official who inspects a building’s construction and tenant improvement construction at various stages to ensure conformity to government building codes and ordinances. Building inspection is an ongoing activity for occupied, as well as under construction, buildings.

Building Permit. Local government approval permitting construction, remodeling or renovation of a building or other structure subject to submitted and approved plans, drawings or other construction documents.

Building Standard. A list of construction materials and finishes used in building out office space for a tenant that the landlord contributes as part of the tenant improvements. Examples of standard building items are: Drywall, paint, doors, partitions, lights, floor covering, electrical outlets, etc. May also specify the quantity and quality of the materials to be used and often carries a dollar value. *See also:* “Workletter”.

Building Standard Plus Allowance. One of various arrangements often used for offering tenant improvements (finishing out office space to accommodate a tenant such as walls, doors, carpeting etc.) Under this arrangement the landlord lists in detail all materials and costs to make the premises suitable for occupancy and provides a negotiated allowance for the tenant to customize or upgrade materials.

Buildout. The construction including configuring and finishing of new or relet space in accordance with a tenant’s specifications.

Build To Suit. A method of leasing property whereby the landlord builds a new building in accordance with a tenant’s specifications.

Built Out. Office space that is already constructed and ready to be occupied. Usually refers to previously occupied space that is available for lease.

Casualty Damage: The damaging or destruction of all or part of the building and/or tenant's demised premises because of fire, flood, tornado or any other casualty. *See also*: "Acts of God; "Force Majeure".

Certificate of Insurance. A certificate, provided by an insurance company that shows the types and dollar limits of insurance carried by the insured party. A landlord may require a certificate of insurance from a tenant to show that the tenant is properly insured. *See also*: "Insurance Provision".

Certificate of Occupancy. A certificate issued by a local government building department or agency stating that a building and/or a tenant suite is in a condition suitable for occupancy. Sometimes also called a "C of O" or a Non-Residential Use and Occupancy Permit.

Change Order. Written authorization for a change in the originally approved construction plans and specifications. A change order will usually require new or additional architectural drawings and mechanical and engineering plans and specifications. In addition, a change order will cause additional expense as a result of work interruption or the purchase of new materials resulting in the discard of materials previously bought.

Circulation Allowance. An amount of space that is allotted by a space planner when planning for a tenant's office space needs and requirements to account for internal hallways and walkways, access to/from desks and other work areas, and to generally account for the flow of people throughout the office area.

Coaxial Cable. A specially constructed cable used for the high frequency transmissions involved with telephone, television and computer signals.

Co-insured. Where a tenant's insurance policy names and includes another party as an additionally insured party in his/her policy such as the landlord. Landlord wants to be named an insured party so that, in the event of a major loss or damage, "his consequential losses" (e.g., his/her rent payments from the tenant) are also covered.

Commission. The fee earned by a real estate agent (broker, leasing agent, etc.) for providing the unique services of matching a lessee and lessor and/or purchaser and seller or real estate and for being in effect the catalyst that makes a real estate transaction happen. A commission is typically a percentage of the total aggregate value of the transaction. However, a commission is any fee paid for brokerage services and, therefore, can be a fixed amount or even an equity or ownership position in the transaction.

Common Areas. Those areas or portions of a building used by more than one tenant (hallways, elevator lobby area, janitorial and maintenance closets/room, restrooms).

Common Area Charges. Income collected from tenants for operating and maintaining items pertaining to common areas. Certain leases contain a clause requiring the tenant to

pay its share of operation and maintenance on common areas and defining the basis on which charges are made and the type of cost items allocable to maintenance of the common area. Of the ways to prorate the charges among the tenants, the most common are (1) a prorated charge based on a tenant's leased area is a portion of the total leasable area of the center or the linear exposure in store frontage, (2) a fixed charge for a stated period, and (3) a variable charge based on a percentage of sales. Some centers include a cost-of-living increase in the common area charges.

Comparables. The terms of executed leases that are used both as examples for the kinds and types of lease terms available in the marketplace. Used for comparing the overall value of a proposed lease to executed leases of similar-sized office users, for leases in the same or nearby buildings, and for leases by a particular landlord.

Compressor. In an HVAC system, the device that compresses (increases the pressure of) the refrigerant gas used to provide cooling (in an air-conditioning unit) or to carry away heat (in a heat pump system).

Convactor. Part of a building's HVAC system, a convactor or convactor units are placed in boxes along the outside walls of buildings and are found directly under or in front of windows. They are used to help supplement the heating and cooling or air for the building's general HVAC system. May also be called "Electric Baseboard Heater"; "Fan Coil Unit."

Conversion. Redesign, remodeling, and conversion of a building from one use to another, i.e., from warehouse to office space.

Cooling Tower. Part of an HVAC system, this structure which typically found on a roof is used to cool water so it can be re-circulated and used to cool the interior of a building. The tower circulates warm water throughout the structure to be cooled by the outside air and the process of evaporation.

Core Factor. The percentage of common area in a building (restrooms, hallways) that when added to the net usable square footage equals the net rentable square footage; may be computed for a building or floor of a building. A "Loss Factor" or "Load Factor" is calculated by dividing the rentable square footage by the usable square footage.

Counterproposal. The tenant's (or tenant's representative) written response to the landlord's proposal and offer to lease space that provides the tenant's expectation and suggested adjustments of the terms, conditions and considerations (e.g., rent) that would be acceptable to the tenant and thereby result in a completed transaction.

Covenant of Quiet Enjoyment. Usually inserted in leases or conveyances whereby landlord or grantor promises that the tenant or grantee shall enjoy possession of the premises in peace and quiet without disturbance.

Default. The general failure to perform a promised task or to pay an obligation when due. Some specific examples are: (1) Failure to make a payment of principal or interest or other type of financial obligation when due; (2) the breach or failure to perform any of the terms of a note or the covenant of a mortgage or deed of trust.

Delineated Area. To describe an area by words, sketch, design or diagram. This term is generally used to describe a suitable geographic area in which to lease space or locate a facility.

Delivered Buildings: Buildings that have completed construction and are ready for tenant build-out.

Demised Premises. The area of an office building an individual or entity places under lease and for which they accept responsibility.

Demising Walls. The walls that designate the perimeter of an office suite and/or partition or separate one office suite from another. A demising wall is typically constructed slab-to-slab and is both sound- conditioned and fire resistant.

Discounting. This concept is that of conversion where future costs or future income is converted into its present value using a discount rate. The concept of time value which holds that the present value of a dollar of future costs or income decreases with the amount of time which will elapse before that dollar is paid. The discount rate is a type of interest rate. Typically, this is the rate that is used to determine the cost of future dollars brought back to today's date.

Double Net Lease. An agreement whereby the tenant has agreed, in addition to a rent payment, to pay separately for two of the maintaining or operating expense items that would otherwise be paid for by the landlord.

Drawings, As Built. Drawings prepared after construction showing actual placement of partitions and other architectural, structural, and mechanical factors.

Drawings, Shell. Reproducible scaled drawings showing exterior walls and permanent interior features such as columns, lobbies, and core areas, masonry, partitions, stair wells, elevator shafts, toilets, mechanical areas and wire closets. Commonly used industry term for a complete set of construction drawings which include layout, architectural, plumbing, mechanical and electrical features.

Effective Rent. The rental rate actually achieved by the landlord after deducting the value of concessions from the base rental rate paid by a tenant usually expressed as an average rate over the term of the lease.

Efficiency Factor. The number resulting from dividing the Usable Area by the Gross Building Area in an office building, providing a benchmark measurement for that building's use as an office building.

Egress. To exit; a way out of a building or premises.

Eminent Domain. A right of the government to acquire private property for public use by condemnation in return for just compensation.

Energy Savings Performance Contract (ESPC). ESPC is a contract that provides for the performance of services for the design, acquisition, financing, installation, testing, operation, and when appropriate, maintenance and repair, of an identified energy or water conservation measure or a series of measures at one or more locations.

Energy Star. A joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy designed to save money and protect the environment via a voluntary labeling program that identifies and promotes energy efficient products and practices that reduce greenhouse gas emissions. The labeling program has been extended to cover new homes and commercial and industrial buildings.

Escalation Clause An agreement in the lease contract to adjust the rent payments in the event of an increase or decrease in costs such as taxes, services, and utilities. Furthermore, add language here that appears under Escalation Clause. Not necessary to add info under Escalator(s).

Estoppel Certificate. A statement confirming the status of an agreement and the performance of obligations under the agreement relied upon by a third party, including a prospective lender or purchaser. In the context of a lease, a statement by a tenant

identifying that the lease is in effect and certifying that no rent has been prepaid and that there are no known outstanding defaults by the landlord (except those specified).

Exclusive Agreement. *See also:* “Letter of Representation”.

Exclusive Letter of Representation. *See also:* “Letter of Representation”.

Exclusive Listing. A written agreement between a real estate broker and a building owner in which the owner promises to pay a fee or commission to the broker if specified real property is sold or leased during a stated period. The listing broker may or may not be the cause of the sale or lease.

Expansion Option. An agreement whereby a tenant has the right to lease additional space at a specified time, over the term of their lease. *See also:* “First Right of Refusal”.

Expense Stop. An amount of money specified in a lease to be the landlord’s maximum contribution towards the building’s operating expenses. The cost of all operating expenses and taxes above the landlord’s contribution are paid for by the building’s tenants.

Face Rental Rate. The “asking” or nominal rental rate published by the landlord.

Fair Market Value. A term usually found in appraisals that attempts to determine the cash price that would likely be negotiated between a willing seller and willing buyer in a reasonable amount of time. For a sale to be considered a reflection of “Fair Market Value,” it must meet all the conditions of a fair sale whereby: (1) both buyer and seller act prudently, knowledgeably and under no necessity to buy, sell i.e., other than in a forced or liquidation sale; (2) the property must be offered on the open market for a reasonable amount of time, taking into consideration the property type and local market and (3) payment is made in cash or terms equivalent to cash. When a sale is unlikely, i.e. when it is unlikely to be completed within 12 months the appraiser must discount all cash flows generated by the property to ascertain the estimate of Fair Value.

Federal Acquisition Regulation (FAR). The primary regulation for use by all Federal executive agencies in their acquisition of supplies and services with appropriated funds. The FAR, together with agency supplemental regulations, replaces the Federal Procurement Regulations. (FPR) System and others. It provides for coordination simplicity, and uniformity in the Federal acquisition process.

Federal Management Regulations (FMR). The successor to the Federal Property Management Regulations (FPMR). It contains a refined set of policies and regulatory material pertaining to the management of archives and records, defense materials, public buildings and space, supply and procurement, telecommunications and public utilities, transportation, utilization and disposal of property, and other programs and activities of GSA which are applicable to the Federal Property and Administrative Services Act of 1949, 63 Stat. 337, as amended.

Floor Load. The weight, stated in pounds per square foot, which may safely be placed upon the floor of a building if uniformly distributed. This is also known as live load. The weight of the building itself, including equipment, such as outlets, machinery, etc., is known as the dead load and is not included as part of the floor load capacity.

Foot Candle. A unit of illumination, equivalent to the illumination produced, by a source of one 1 candle at a distance of one (1) foot. A uniform lighting level of 50 foot candles at a work surface height is standard for office space.

First Right of Refusal. A clause occasionally inserted in a lease that gives a tenant the first opportunity to buy or lease space in a property if the owner decides to sell or the opportunity for additional leased space becomes available. The owner must have a legitimate offer, which the tenant can match or refuse.

Flex Space. A one- or two-story buildings with little or no common areas, high ceilings, load bearing floors and loading dock facilities. Usually designed to allow for office space, or a combination thereof, with light assembly or warehouse/distribution uses.

Floor Area Ratio. The approved zoning ratio that permits, because of vertical ascension, the building of some multiple amount of square feet of commercial office or other space for each square foot of actual land owned or purchased, subject to other restrictions such as setback requirements or vehicle parking areas (as in the suburbs).

Floor Efficiency. A term used to denote how efficiently an individual building floor can be converted to or used as office space. A preliminary measure of floor efficiency is the building core percentage, offering only a relative measure of the potential efficiency of a floor. To assess a floor's office space efficiency accurately, the following information must be known. Shape of the floor, actual location of the building core (center of building or off to the side), depth of the building, fire stairwell locations, column distances, and distances between window mullions. The distance between window mullions helps determine the optional or maximum office width (mullions four feet apart allow office widths of 8, 12, and 16 feet, whereas mullions five feet apart would require 10-, 15-, or 20-foot office widths).

The window mullion distance helps determine the maximum number of windowed offices a floor could have. The bay size and/or distance between columns helps determine an office, hallway, or secretarial location configuration (depending on bay depth from a window) and the largest clear span area (or width) available for a large conference room.

Force Majeure. A force that cannot be controlled or resisted. In other words, something beyond the control of the parties involved. Includes acts of God (e.g. flood, tornadoes, etc.) and acts of man (e.g. riots, strikes, arson, etc.).

Foreclosure. A proceeding in or out of court, designed to extinguish all rights, title, and interest of the owner(s) of property in order to sell the property to satisfy a lien against it.

Full Service Rent. A rental rate that included operating expenses and real estate taxes for the first year. The tenant is generally still responsible for any increases in operating expenses and real estate taxes over the base year amount. *See also:* “Pass Throughs”.

Fully serviced rent. Includes services, sometimes referred to as gross rent.

Functional Designs. Design of a structure or facility that increases its overall efficiency and provides maximum user acceptance. a parking concept plan showing traffic flow, stall geometry, and other features that determine the interior design of parking facilities.

Future Proposed Space. Commercial space in proposed development projects, which either have not started construction or set a construction start date. Future Proposed projects include all those waiting for a lead tenant, financing, zoning, approvals or any other event necessary to begin construction. Also may refer to the future phases of a multi-phase project that have not yet been built.

Graduated Lease. A lease, generally long term in nature, with varied rental payments and usually based on periodic appraisal or simply the passage of time.

Grant. To transfer an interest in real property. either the fee or a lesser interest, such as easement.

Grantee. One to whom a grant of property or property rights, generally, the buyer.

Grantor. One who grants property or property rights, generally, the seller.

Gross Absorption. Absorption is a measure of the amount of office space leased over a period of time. Gross absorption is a measure of the total square feet leased over a period of time with no consideration for office space vacated in the same area during the same period. *See also:* “Net Absorption”.

Gross Building Area. The total floor area in an office building measured in square feet that are associated with that building’s use as office building. The area extends to the outer surface of exterior walls and windows and includes office area, retail area, and other rentable areas such as vending machine space and storage area, but excludes parking and roof space.

Gross Lease. A lease that provides that the landlord shall pay all expenses of the leased property, such as taxes, insurance, maintenance, utilities, etc.

Ground Lease. A lease covering the use of land only, with the lease sometimes secured by improvements installed by the tenant. May also be called a “Land Lease”. Rate that includes services, maybe referred to as fully serviced rent.

Ground Rent. Rent paid for vacant unimproved property. If the property is improved, ground rent is that portion of the total earnings attributable to the land only.

Guarantor. One who makes a guaranty. *See also:* “Guaranty”.

Guaranty. An agreement whereby an individual or entity (Known as the guarantor) assures the landlord that the tenant signing the lease will make timely payment of rent and will fulfill all other conditions and obligations of the lease. In the event of any default by the tenant, the guarantor promises to assume all responsibility for the payment of rent and the lease itself. A landlord may waive the requirement for a security and/or advanced rent deposit(s) when there is a guaranty to lease.

Heat Pump. An electric heating and cooling device more efficient than traditional element heating and air conditioning systems. A heat pump system is designed to transfer heat. In the winter, it removes heat from the outside air and “transfers” it indoors. This heat transfer can occur even with relatively cool outdoor temperatures. In warmer weather, the heat pump is designed to remove the heat from indoors and transfer it outside.

HVAC. The acronym for Heating Ventilating and air-conditioning. Refers to the equipment used to heat and cool a building.

Highest and Best Use. The most profitable likely use, within the realm of reasonable probability, to which a property can be put or adapted, and for which there is a current market.

Holdover Rent. An extremely high rent intended as a penalty to a tenant that continues to use or remain in possession of a leased premises beyond the lease term. A holdover rent of at least one-and-one-half or two times the monthly rent may be in effect beginning on the last day of the lease term.

Holding Over. The period that a tenant remains in possession of the leased premises beyond the expiration or termination date of the lease document. Holding over can occur with or without landlord’s consent or permission.

Hold Over Tenant. A tenant who retains possession after the expiration of a lease.

Insurance Provision. A lease clause requiring a tenant to maintain certain types of insurance coverage (e.g., public liability, hazard, etc.), and in certain instances, at some landlord determined minimum insurance value. *See also:* “Certificate of Insurance”; “Co-Insured”.

Joint and Several. Pertains to a type of liability for the partners in a partnership. When partners sign as joint and several as for instance when taking out a loan from a bank, in the case of default the bank can seek legal remedies against each partner separately (several) or against all the partners together (joint).

Judgment. The recording of a court's decision against the defendant in a legal action or suit resulting in a general lien against the defendant's property. May also be called "General Lien".

Landlord Representation. A real estate broker or agent who works on behalf of a landlord. Typically the landlord-to-agent relationship is established by an exclusive listing agreement and is for a particular building or property. The term "landlord representative" or "landlord broker" is used to describe the relationship between the landlord and the individual agent providing the service to the landlord. Some organizations specialize in landlord representation.

Landlord's Lien. Several types of landlord's lien are created by contract or by statute. Some examples are 1) a contractual landlord's lien 2) statutory landlord's lien; and 3) landlord's remedy of distress (or right of distraint), which is not truly a lien but has a similar effect.

Landlord's Market. Describes a situation in which there is a minimum or limited amount of vacant office space available and many users are looking for office space. When this situation occurs, landlords can raise rental rates and offer few, if any, concessions or allowances and still have little problem in leasing office space.

Landlord's Warrant. A warrant enabling a landlord to levy upon a tenant's personal property (e.g. furniture, etc.) and to sell this property at a public sale to collect delinquent rent.

Layout Block. The layout block is a preliminary assignment pattern developed for the space and indicated in outline form on a scale plan. The primary purpose is to identify the approximate total space to be assigned, locate the agency and its major components and identify the location of the agency's special requirements.

Layout, Detailed Space or Agency. The occupancy pattern developed for the building displaying the approximate location of all partitions, doors, electrical, and telephone outlets, and the designation of all areas requiring special floor loading capability, along with requirements beyond general purpose space.

Lease. An agreement whereby the owner of real property (i.e. landlord) gives the right of possession to another (i.e. tenant) for a specified period of time (i.e. term) and for a specified consideration (i.e. rent).

Lease Commencement Date. The date on which beneficial occupancy commences and the legal terms of the lease go into effect.

Lease, New. A new lease carries a new lease number and covers space in a building for where there has been no prior Agriculture lease.

Lease Renewal. The exercise of an option in the lease to renew its terms and conditions for an additional period.

Lease, Sublease. An agreement conveying the right of use and occupancy of a property in which the lessee is the lessor in a preexisting lease.

Lease, Succeeding. A lease secured to cover continued occupancy of premises without a break in continuous tenancy. The succeeding lease carries a new lease number and establishes new terms and conditions.

Lease, Superseding. A lease which replaces a prior lease before it expires.

Lease, Supplemental Agreement. An amendment to a lease by mutual agreement of the lessor and lessee, changing, adding or deleting one or more of the terms and conditions of the lease or adding or deleting one or more new terms and conditions.

Lease Term. The length of time a lease is in full force and effect. It is determined by a lease commencement date, lease expiration date, and/or the number of months or years the lease document shall be valid. If a lease commencement date changes from that originally specified in a lease (for example, if the landlord is unable to complete office remodeling or construction), the time period specified by the lease term will remain the same starting on the new lease commencement date.

Lease Year. Any period of 12 consecutive months, starting from the first day of a month. The first day is either the lease commencement date or the first day of the month immediately following the lease commencement date.

Leasehold Improvements. The construction, fixtures, attachments, and any and all physical changes and additions made to leased premises whether made by the tenant (with or without the landlord's permission), or on the tenant's behalf by the landlord or a representative (e.g. subcontractor) of the tenant.

Leasing Agent. The term for individuals who specialize in leasing commercial real estate including office, retail and industrial space. A leasing agent must work for a principal broker and be licensed. Because the individual acts on behalf of another to locate and negotiate for office space, the term "leasing agent" or just "broker" is synonymous with "leasing agent." In this context the term "broker" is being used in the definition rather than the legalistic sense.

Lessee. One who possesses the right to use or occupy a property under a lease agreement.

Lessor. One who conveys the right to use and occupy a property under a lease agreement.

Letter of Attornment. A letter from, a grantor to a tenant, stating that a property has been sold, and directing rent to be paid to the grantee (i.e., the new owner.) *See also:* "Attorn."

Letter of Credit. An engagement, pledge or commitment by a bank or person, made at the request of a customer, stating that the issuer will honor drafts or other demands for payment upon full compliance with the conditions specified in the letter of credit.

Letter of Intent (LOI). A signed agreement by both tenant and landlord prior to the lease, and setting forth primary terms, conditions, and considerations that are to form the basis of the lease. The letter of intent, as the basis for the lease document, is a show of good faith on the part of the tenant and the landlord. Both the tenant and landlord agree, for some stated period of time, that the tenant will not continue to look for other office space and the landlord will not attempt to lease the particular office space to another; and both will make a good faith effort to reach agreement for the final lease document.

Letter of Representation (Exclusive Agent/Broker). A written agreement between a tenant and a broker stating that the broker (or his or her representatives) will be the only agent working on behalf of the tenant to locate and negotiate for office space. The letter of representation provides credibility for both the tenant and the broker in the marketplace and establishes a fiduciary relationship between the broker and the tenant. This relationship is disclosed to each landlord that might have office space to meet the tenant's needs.

Lien. An encumbrance against property for money, either voluntary or involuntary. All liens are encumbrances but all encumbrances are not liens.

Lienholder. A mortgagee or other creditor who has a lien against the property of another.

Lien Waiver (Waiver of Liens). Generally, a waiver of mechanic's lien rights signed by a general contractor and his subcontractors.

Limited Partnership. A partnership created under state law which consists of one or more general partners who conduct the business and are responsible for any losses, and one or more special or limited partners who contribute capital and are liable only up to the amount contributed.

Listing Agreement. An agreement between the real estate broker and the property owner, which authorizes the broker to assist in the sale or lease of that property in return for a fee, commission or other form of compensation. *See also:* "Exclusive Listing".

Life Expectancy. The normal economic life which may be expected of building dating from its completion date. The residual life expectancy is the remaining period of estimated economic life dated from a subsequent time.

Lobby, Elevator. A definite space in front or between elevators exclusively to accommodate elevator passengers.

Lobby, Public. Space inside the public entrance of a building, affording circulation for the general public to or from other parts of the building.

Market Rent. The rental income that a property would most probably command on the open market indicated by current rents paid and asked for comparable space as of the date of the appraisal.

Market Value. the most probable price which a property should bring a competitive and open market under all conditions requisite to a fair sale the buyer and seller, each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are well informed or well advised, and acting in what they consider their own best interests; (3) a reasonable time is allowed for exposure in the open market; (4) payment is made in terms of cash in US dollars or in terms of financial arrangements comparable thereto and (5) the price represents the normal consideration for the property sold unaffected by special or creative financial or sales concessions granted by anyone associated with the sale.

Master Lease. A primary lease that controls subsequent leases and which may cover more property than subsequent leases.

Mechanic's Lien. A claim created by state statutes for the purpose of securing priority of payment for the price or value of work performed and materials furnished in construction or repair of improvements to land, and which attaches to the land as well as to the improvements.

Millwork. Wood work used to finish or decorate an office environment. Typical millwork includes wood ceiling and baseboard moldings, closet shelves and bookshelves. The term millwork is also used to describe any custom-made finishes or furniture.

Mortgage Lien. A lien or claim by the mortgagee on the real estate used as security for the mortgagor's debt obligation. *See also:* "Lien".

Multi-Use. That type of land use development which entails more than one type of use in a given structure or structures such as retail commercial space and general purpose office type space.

Net Absorption. Absorption is a measure of the amount of office space leased over a period of time. Net absorption is a measure of the total square feet leased over a period of time taking into consideration office space vacated in the same area during the same period. *See also:* "Gross Absorption".

Net Effective Rent. Presented as part of a financial analysis on the economic terms of a lease. It represents the imputed or estimated true actual dollar rent payment on a per-square-foot basis that will be made each year by the tenant. The net effective rent

accounts for the initial base rent, estimated rent increases or escalations, estimated operating expense, and real estate tax increases passed on by the landlord, and adjusts for any no-rent or rent abatement periods each year. The resultant net effective rent is the estimated actual per-square-foot dollar outlay the tenant will have each year for the basic rent for the occupied premises. The financial analysis can be adjusted to account for special items that would affect the basic premises rent, such as income and/or profit from subletting space or paying a landlord for tenant improvements over time or through an amortized loan payment.

Net Lease. A lease in which the tenant pays in addition to rent, certain costs associated with a leased property including property taxes, insurance premiums, repairs, utilities, and maintenance. There are also “net-net” (double net) and “net-net-net” (triple net) leases, depending upon the degree to which the tenant is responsible for operating costs.

Net Present Value (NPV). Presented as part of a financial analysis on the economic terms of a lease, it represents the taking of an imputed or estimated total dollar value and/or the actual total dollar paid out by the tenant up to a specified time period (for example, five years) and presenting this aggregate total rent in terms of current dollars.

Net Rentable Area. Floor area of a building less any vertical penetrations of the floors. No deductions are made for necessary columns and projections of the building (BOMA Standard).

Non-Disturbance Agreement. A lease clause that would require a new landlord or legal owner to recognize and honor the tenant’s current lease document and all its provisions provided that the tenant is not in default of the lease. A non-disturbance clause overrides a subordination right in that, even in the event of a foreclosure, a new owner would be required to recognize the continued validity of a tenant’s lease. Non-disturbance should not be confused with quiet enjoyment.

Notification of Subordination. A document a tenant may be asked to deliver to a lender or financing institution as certification that the tenant’s lease is in fact subordinate to a mortgage or deed-of-trust. *See also*: “Subordination”; “Attorney-In-Fact, Subordination Clause”.

Obsolescence, Economic. A condition wherein community and neighborhood factors have a negative influence on the value of the property.

Obsolescence, Functional. Impairment of desirability and usefulness brought about by new inventions, design changes, or external influences which make a property less desirable and valuable for a continued use.

Offer. A proposal submitted in response to a SFO to provide property, goods, or services. Leases are awarded under this method of acquisition which requires negotiations with all offerors.

Office Area Square Feet. This is the standard method of measuring floor area in office buildings. The federal government previously used the term “usable” when referring to this type of space. The government now uses the term “office area” as defined in the ANSI/BOMA Z65.I-1996 Standard Method for Measuring Floor Area in Office Buildings.

Open Space. The total area of land and/or water not improved by a building, structure, street, road or parking area, or containing only such improvements as are complementary, necessary or appropriate to the use and enjoyment of the open area.

Operating Expenses. The actual cost of operating income-producing property, including utilities and similar day-to-day expenses, taxes, insurance and reserves for the replacement of items that wear out.

Operating Cost Escalation. Refers to the clause in a lease agreement used to adjust rents over the term of a lease.

Outlease. A lease covering use and occupancy of Government-owned or leased property, in which the Government is the lessor.

Parking Ratio. Figure representing the number of parking spaces available per 1,000 square feet of gross leasable area.

Partitions, Free Standing. Panels used to divide space, generally surfaced in fabric or plastic laminate and ranging in height from 4-1/2 to 6 feet. Such partitions are capable of standing alone and/or being hanged with others of the same type, and usually have acoustical control properties.

Partitions, Load Bearing (or permanent). Floor to ceiling slab or slab to slab walls which provide structural support to the floor or roof above.

Partitions, Subdividing. Floor-to-ceiling walls used to divide space or provide acoustical control, providing no structural support to the building.

Pass Throughs. Building and operating expenses that are paid by the tenant under the terms of a lease.

Percentage Lease. A lease, generally on a retail business property, in which the rent is calculated as a percentage of sales. There is usually a minimum or “base” rent in the event of poor sales.

Performance Bond. A bond posted by a contractor guaranteeing the owner that the bonding company will complete construction if the contractor defaults.

Personal Property. Generally, movable items; that is, those not permanently affixed to and part of real estate. In deciding whether or not a thing is personal property or real estate, usually there must be considered (1) the manner in which it is annexed; (2) the

intention of the party who made the annexation, (that is to attach permanently or to remove at some time); (3) the purpose for which premises are used. Generally, and with exceptions, items remain personal property if they can be removed without serious injury to either the real estate or to the item itself.

Planned Delivery Space. Office space that is currently under construction or renovation and will be completed (delivered to the market) within two years; does not include Proposed or Future Proposed Space.

Precast Concrete. Concrete building components fabricated at a plant site and shipped to the site of construction.

Prelease. A signed lease for space in a multi-tenant office building which has not yet received a Certificate of Occupancy.

Preliminary Working Drawings. The initial set of drawings and renderings that completely describe and show construction detail. Preliminary working drawings will have initial electrical, mechanical, and other engineering requirements, specifications, and capacities.

Prime Space. First generation (new) space that is currently available for lease but has not yet received a Certificate of Occupancy.

Prime Tenant. The major tenant in a building, shopping center, etc.

Possession. That point in time when the control of office space passes from the landlord to the tenant. Possession of office space usually occurs upon the lease commencement date. It is at this point that the tenant becomes responsible for all the obligations of the lease.

Pro Forma. A financial estimate of the gross and net income and expenses that are expected to be incurred in a new (or renovated) office building (or any real estate investment venture).

Pro Rata Share. A percentage representing the ratio of the tenant's office space area to some base amount of space available in the building. The base amount of space available in the building can be calculated according to the total rentable office space; total rentable space less retail space; total square feet in the building less parking areas. Different base calculations are used to reflect appropriate cost sharing for a tenant's office space.

Programming. The office space needs and requirements analysis performed by an architect/space planner as an initial phase of a tenant's relocation process. The programming phase is a systematic process of staff interviews and organization data collection in order to evaluate the actual and future (based on growth expectations) space requirements of the organization.

Punch List. An itemized list noting incomplete or unsatisfactory construction of the tenant's space. Usually prepared by the tenant's architect after the contractor has notified the owner that the tenant space is substantially complete.

Real Property. This refers to the interests, benefits, and right inherent in the ownership of physical real estate. It is the bundle of rights with which the ownership of real estate is endowed. In some states, this term as defined by statute, is synonymous with real estate.

Realty Services Letter. Issued by GSA, these are used to transmit changes in realty policy and procedures to realty specialists and RPLOs. RSLs may be developed in response to initiatives such as new legislation, Executive Orders, internal agency policy, audit findings, protest decisions, etc. Some RSLs are developed in conjunction with other PBS offices such as Office of Real Property Asset Management, Office of the Chief Architect, General Counsel, etc. These policies are mandatory for GSA and for agencies operating under delegations from GSA, when they implement laws, Executive Orders, and regulations. Other RSLs are no longer mandatory, but are retained for reference as good business practices. RSLs have a sunset provision; each summer, GSA reviews the letters to determine their continuing applicability.

Recycling Programs. Are programs that promote cost-effective waste prevention and recycling of reusable materials (e.g., paper, bottles, aluminum cans, toner cartridges, batteries, etc.) at a facility. Recycling programs are required in the acquisition and management of Federally owned and leased space, including contractor operated government owned or leased facilities. These programs must be compatible with State and local recycling requirements. For further information: <http://www.ofee.gov> and www.gsa.gov/pbs.

Rent, Gross. Total periodic rent paid to the lessor under the lease agreement, regardless of inclusion or exclusion of services or utilities.

Rent, Net. Bare contract rent exclusive of the reasonable value of services and utilities.

Rent, Net, Net, Net. That rental consideration in the terms of a triple net lease where the lessee must furnish all services and utilities, pay all taxes and insurance, and be responsible for repairs and maintenance.

Rent, Nominal. Rental consideration that is paid to a landlord which is equal to or less than the landlord's operating costs.

Repair. A repair is restoration of a facility to a condition substantially equivalent to its original state and efficiency. The distinction is made that whereas maintenance is preventive, repairs are curative. Routine and incidental replacement of parts constitutes ordinary repairs; extensive replacement of parts constitutes extraordinary repairs.

Second Generation Space - A term typically applied to office space that has had a prior tenant and so has some improvements that are reusable by a subsequent tenant, such as

some walls, doors, ceiling treatments, and light fixtures. Contrast with first-generation space, which has never been customized for a tenant and consists of wide-open space with support columns, concrete flooring, and the concrete bottom of the floor above.

Slab - Any broad, flat relative thin piece of wood, stone, or other solid material. The term has been adopted to describe a floor or foundation of concrete, either on the ground or supported.

Space, Categorical. This type of space is designated as such because of architectural features or the installation of fixed (built-in) equipment and special utilities necessitate the expenditures of varying additional sums of money to construct, maintain, and/or operate as compared to office or storage space. Categorical space includes space to house antennas, repeaters, or transmission equipment; depots, including, but not limited to, stockpiling depots and torpedo net depots; docks, piers, and mooring facilities (including closed storage space required in combination with such facilities); fumigation areas; garage space (may be leased only on a fiscal year basis); greenhouses; hangars and other airport operating facilities including, but not limited to, flight preparation space, aircraft storage areas, and repair shops; hospitals, including medical clinics; housing (temporary), including hotels (does not include quarters obtained pursuant to temporary duty travel or employee relocation); laundries; quarantine facilities for plants, birds, and other animals; ranger stations, *i.e.*, facilities that typically include small offices staffed by one or more uniformed employees, and may include sleeping/family quarters, parking areas, garages, and storage space. Office space within ranger stations is minimal and does not comprise a majority of the space. (May also be referred to as guard stations, information centers, or kiosks); recruiting space for the armed forces (lease terms, including all options, limited to 5 years); schools directly related to the special purpose function(s) of an agency; specialized storage/depot facilities, such as cold storage; self-storage units; and lumber, oil, gasoline, shipbuilding materials, and pesticide materials/equipment storage (general purpose warehouse type storage facilities not included); and space for short-term use (such as conferences and meetings, judicial proceedings, and emergency situations).

Space, Office. This space must provide an acceptable environment suitable in its present state for an office operation. This requirement includes, but is not limited to, adequate lighting heating and ventilation, floor covering, finished walls, accessibility, etc. The space may consist of large open area or may be partitioned into rooms. Private corridors, closets, etc., which have been created within office type space through the erection of partitions shall be considered office type space. The determination of whether space is office type is based on as-built rather than as used.

Space Special. This type of space is designated as such because of architectural features or the installation of fixed (built-in) equipment and, special utilities, necessitate the expenditures of varying additional sums of money to construct, maintain, and/or operate as compared to office and storage space. Special space includes print-shops, computer facilities, health units and laboratories.

Space, Storage. Space generally constructed with concrete, woodblock unfinished floors, bare block or brick interior walls, unfinished ceiling, and similar construction containing only essential lighting and heating. This type of space includes basements, warehouses, sheds, inside parking areas, attics, unimproved areas of loft buildings and unimproved building cores.

Studs. The vertical members of a wall or partition.

Supplemental Lease Agreement (SLA). This is an agreement, [GSA Form Number 276](#), amending/supplementing the original lease. Each SLA is numbered sequentially.

Survey, Market. A field survey of the areas under consideration for a lease requirement for the purpose of obtaining information on market conditions and the availability of suitable space.

Turnkey. Any job or contract in which the contractor agrees to complete the work to a certain specified point and to assume all risk. For leases, a turnkey contract requires the lessor to complete all specified alterations necessary for the Government to occupy the space.

Value, Fair Market. The highest price estimated in terms of money which a property will bring if exposed for sale in the open market by a seller who is willing but not obligated to buy with both parties having full knowledge of all the uses to which it is adapted and for which it is capable of being used.

Value, Fair Rental. That monetary amount reasonably expected for the right to an agreed use of real property as established by competition in the rental market, or if market data is inadequate or unavailable, that amount which will amortize the value of the remaining investment and provide a fair rate of interest return during the remaining useful life of the rented property. This may be referred to as Fair Annual Rental.

Wall, Curtain. A non bearing enclosed wall of metal, glass, masonry or wood.

Wareyard. Open land, commonly used for parking or storage

APPENDIX C

STATUTORY AND REGULATORY REQUIREMENTS

USDA must acquire and use space in accordance with all applicable laws, Executive Orders and Office of Management and Budget (OMB) Circulars that apply to federal space acquisition activities. Below is a non-exhaustive list of laws, regulations, Executive Orders, OMB Circulars and GSA procedures governing the acquisition processes. This list may be added to or amended from time to time. As discussed in [OMB Circular A-11](#), http://www.whitehouse.gov/omb/Circulars_a11_current_year_a11_toc/, all leases must be scored prior to execution and must be budgeted in accordance with OMB scorekeeping rules. When using the 20 year authority, caution must be exercised to ensure that the net operating rents do not exceed the [GSA annual prospectus thresholds](#) that can be found at: www.gsa.gov/annualprospectusthreshold.

Public Laws

1. [2008 Farm Bill](#), http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_bills&docid=f:h6124enr.txt.pdf: To provide for the continuation of agriculture and other programs of the Department of Agriculture through fiscal year 2012, and for other purposes.
2. [American Recovery and Reinvestment Act \(ARRA\) of 2009 \(111-5\)](#), http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h1enr.pdf: The Act was intended to provide a stimulus to the U.S. economy in the wake of the economic downturn. The Act followed other economic recovery legislation passed in the final year of the Bush presidency including the Economic Stimulus Act of 2008 and the Emergency Economic Stabilization Act of 2008 which created the Troubled Assets Relief Program (TARP).
3. [Anti-Kickback Act of 1986 \(41 USC 51\)](#), <https://www.acquisition.gov/FAR/05-17/html/Subpart%203.5.html>: The Act was passed to deter sub-contractors from making payments and contractors from obtaining or rewarding favorable treatment in connection with a contract or subcontract.
4. [Amendments to the Small Business \(15 USC 637\)](#), <http://www.sba.gov/regulations/h1568enr.html>: The Act requires a positive effort by federal contractors to place subcontracts with small and disadvantaged business concerns.
5. [Amendment to the Toxic Substances Control Act \(15 USC 2669\)](#), <http://uscode.house.gov/download/pls/15C53.txt> and <http://www.usda.gov/rus/water/ees/pdf/tsca.pdf>: The Act directs federal agencies to establish radon measurement procedures in federally leased facilities.

6. [Americans with Disabilities Act of 1990 \(110-325\)](http://www.ada.gov/pubs/ada.htm), <http://www.ada.gov/pubs/ada.htm>: The Act prohibits private employers, state and local governments, employment agencies and labor unions from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment. The ADA covers employers with 15 or more employees, including state and local governments. It also applies to employment agencies and to labor organizations. The ADA's nondiscrimination standards also apply to federal sector employees under section 501 of the Rehabilitation Act, <http://www.eeoc.gov/laws/statutes/rehab.cfm> as amended, and its implementing rules.
7. [Architectural Barriers Act Accessibility Standard](http://www.access-board.gov/), <http://www.access-board.gov/>: The Act is intended to ensure that certain buildings financed with federal funding and are designed, constructed, altered, and leased in accordance with standards to provide ready access to and use of such buildings to the physically challenged. The Architectural Barriers Act Accessibility Standard, (ABAAS) is GSA's accessibility standard under the ABA. It comprises ABA Chapters 1 and 2 and Chapters 3 through 10 of the Americans with Disabilities Act and Architectural Barriers Act Accessibility Guidelines published by the U.S. Access Board on July 23, 2004. A full copy of the guidelines is available at <http://www.access-board.gov>. Applicability of ABAAS to Leased Facilities – ABAAS Section F202.6 Leases, outlines compliance requirements for leased facilities.
8. [Assignment of Claims Act of 1940 \(31 USC 3727\)](https://www.acquisition.gov/FAR/05-30/html/Subpart%2032.8.html), <https://www.acquisition.gov/FAR/05-30/html/Subpart%2032.8.html>: The Act allows contractors to assign rights to payment, including rent, to established financing institutions.
9. [Budget Enforcement Act of 1990 \(2 USC and 15 USC\)](http://en.wikipedia.org/wiki/Budget_Enforcement_Act_of_1990), http://en.wikipedia.org/wiki/Budget_Enforcement_Act_of_1990: The Act is based on the way OMB defines capital leases. The Act financially penalizes agencies using extended lease terms that make building look like or resemble ownership acquisitions. Agencies must budget the entire obligation in the first year if the lease is a capital lease.
10. [Clean Air Act Extension of 1990 \(84 Stat. 1676, Public Law 91-604\)](http://www.epa.gov/air/caa/), <http://www.epa.gov/air/caa/>: The Act is a United States federal law that requires the Environmental Protection Agency (EPA) to develop and enforce regulations to protect the general public from exposure to airborne contaminants that are known to be hazardous to human health. This law is an amendment to the Clean Air Act (CAA) originally passed in 1963.
11. [Clean Water Act of 1972 \(PL 92-500\)](http://en.wikipedia.org/wiki/Clean_Water_Act), http://en.wikipedia.org/wiki/Clean_Water_Act: The Public Law is the primary federal law in the United States governing water pollution. Commonly abbreviated as the CWA, the Act established the symbolic goals of eliminating releases to water of high amounts of toxic substances, eliminating additional water pollution by 1985, and ensuring that surface waters would meet standards necessary for human sports and recreation by 1983.

- C-3

19. [Energy and Independence Security Act \(EISA\) of 2007 \(Public Law 110-140\)](#), http://www1.eere.energy.gov/femp/pdfs/eisa_femp.pdf: The Act moves the U.S. “toward greater energy independence and security, to increase the production of clean renewable fuels, to protect consumers, to increase the efficiency of products, buildings, and vehicles, to promote research on and deploy greenhouse gas capture and storage options, and to improve the energy performance of the Federal Government, and other purposes. Federal agencies must meet energy and storm water mandates such as, reduce the fossil fuel based energy consumption of new and renovated buildings to zero by 2030 and also achieve energy conservation and alternative energy measures in existing buildings, and develop any site over 5,000 SF as to maintain pre-development hydrologic properties such as flow, discharge rate, volume, and use site planning, design, construction and maintenance strategies for the property to maintain or restore, to the maximum extent technically feasible, the predevelopment hydrology of the property with regard to the temperature, rate, volume, and duration of flow.
20. [Energy Policy Act of 2005 \(EPAct\) \(PL 109-58\)](#), http://en.wikipedia.org/wiki/Energy_Policy_Act_of_2005: The Act requires all Federal buildings be metered by October 1, 2012, to ensure efficient energy use and reduce the cost of electricity used in Federal facilities.
21. [Examination of Records \(PL 103-355, 2551\)](#), <http://thomas.loc.gov/cgi-bin/bdquery/z?d103:SN01587:@@L&summ2=m&>: The Public Law authorizes the head of the agency and the Comptroller General to inspect records of Federal Contracts. This authority is not applicable to contract below the simplified acquisition threshold for leasing
22. [Federal Property and Administrative Services Act of 1949 \(PL 106-580\)](#), http://www.gsa.gov/Portal/gsa/ep/contentView.do?P=XAE&contentType=GSA_BASIC&contentId=11754: The Public Law established the GSA. The Act allows the GSA to enter into leases for real property that bind the government for periods not to exceed 20 years. In turn, GSA had delegated leasing authority to certain Federal agencies (Federal Management Regulation {FMR} 41 CFR 102-72 - <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=c85b5c74f4b0d05e011e7d54dba3222c&rgn=div5&view=text&node=41:3.1.1.3.20&idno=41>),
23. [Federal Acquisition Streamlining Act of 1994 \(FASA\)\(Public Law 103-556\)](#), http://en.wikipedia.org/wiki/Federal_Acquisitions_Streamlining_Act. The Act enables simplified procurement procedures where the procurement is limited, facilitates reliance of Commercial-off the shelf technology, and promotes the use of fixed price performance based contracting. The law alters procurement strategy from lowest bid to best value.
24. [Fire Administration Authorization Act of 1992 \(15 USC 2227\)](#), <http://cfr.vlex.com/source/code-federal-regulations-public-contracts-property-management-1090>: The Act requires that an entire building be sprinklered or the owner must provide an equivalent level of life safety when Federal funds are used to lease 35,000 square feet or more of space in a building (under one (1) or more leases) and some portion of the leased s

pace is on or above the sixth (6th) floor. The Act also requires that all hazardous areas be sprinklered in all Government leases. Numbers need to be recalculated.

25. [Intergovernmental Cooperation Act of 1968 \(40 USC 531-535\)](http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_id=9564&p_table=STANDARDS), http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_id=9564&p_table=STANDARDS: The Act requires that GSA consult with planning agencies and local elected official to coordinate Federal projects (i.e., usually large projects requiring Congressional prospectus approval) with development plan and programs of the state, regional and locality where the project is located.
26. [National Earthquake Hazards Reduction Act of 1977 \(42 USC 770\)](http://www.fema.gov/library/viewRecord.do?id=3080), <http://www.fema.gov/library/viewRecord.do?id=3080>: The Act requires the establishment and maintenance of an effective earthquake reduction program to reduce the risks of life and property from future earthquakes.
27. [National Energy Conservation Policy Act of 1978 \(42 USC 6201\)](http://en.wikipedia.org/wiki/National_Energy_Conservation_Policy_Act), http://en.wikipedia.org/wiki/National_Energy_Conservation_Policy_Act: The Act requires that each Federal agency give appropriate preference to buildings which use solar heating and cooling equipment or other renewable energy sources.
28. [National Environmental Policy Act \(NEPA\) 1969 \(USC 4321\)](http://www.epa.gov/Compliance/nepa/), <http://www.epa.gov/Compliance/nepa/>: The Act requires an assessment of the environmental impacts associated with major Federal actions. This Act is implemented by Executive Order (EO) 11541. Normally, this Act does not apply to acquisitions less than 10,000 square feet. The Act may be referred to as NEPA. .
29. [National Historic Preservation Act of 1966 \(16 USC 470-470w-6\)](http://www.achp.gov/NHPA.pdf), <http://www.achp.gov/NHPA.pdf>: The Act requires listed historic property be protected for harm as a result of federal actions, including leasing.
30. [Occupational Safety and Health Act \(OSHA\) of 1970 \(5 USC 7902\)](http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_id=2743&p_table=OSHACT), http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_id=2743&p_table=OSHACT: The Act requires federal agency to ensure that leased space provides safe, healthful working conditions, including emergency elevator requirements, etc. The Act may be referred to as OSHA.
31. [Officials Not to Benefit \(41 USC 22\)](http://www.law.cornell.edu/uscode/41/uscode_sec_41_00000022----000-.html), http://www.law.cornell.edu/uscode/41/uscode_sec_41_00000022----000-.html: The Act prohibits any member of Congress from receiving any benefit arising from a federal contract.
32. [Prohibition Against Payments to Influence \(31 USC 1352\)](https://www.acquisition.gov/far/html/Subpart%203_8.html), https://www.acquisition.gov/far/html/Subpart%203_8.html: The Act requires certifications from contractors that funds have not and will not be paid to any person to influence the award of a Federal contract.

33. [Prompt Payment Act of 1982 \(31 USC 3901-3907\)](http://www.whitehouse.gov/omb/fedreg_ppa1010revfinal4/), http://www.whitehouse.gov/omb/fedreg_ppa1010revfinal4/: The Act requires federal payments to contractors be made in an expeditious manner, provides penalties for the late payment by the Government, and requires that the Government be entitled to discounts for early payment.
34. [Public Buildings Amendments Act of 1972 \(PL 108-204\)](http://www.nps.gov/history/history/online_books/fhpl/public_bldgs_coop_use.pdf), http://www.nps.gov/history/history/online_books/fhpl/public_bldgs_coop_use.pdf: The Act amended Public Buildings Act of 1959, as amended, to provide for financing the acquisition, construction, alteration, maintenance, operation, and protection of public buildings, and for other purposes
35. [Public Buildings Cooperative Use Act of 1976 \(PL 94-541, 40 U.S.C. 601a\)](http://www.nps.gov/history/history/online_books/fhpl/public_bldgs_coop_use.pdf), http://www.nps.gov/history/history/online_books/fhpl/public_bldgs_coop_use.pdf: The Act encourages the use of certain public areas for cultural, educational, and recreational activities.
36. [Rural Development Act of 1972 \(40 USC 3122{b}\)](http://www.csrees.usda.gov/about/offices/legis/pdfs/ruraldevact.pdf), <http://www.csrees.usda.gov/about/offices/legis/pdfs/ruraldevact.pdf>: The Act requires that when moving or establishing new offices, consideration be given to locations in rural communities. In general practice, a rural community is one with a population of less than 50,000 inhabitants.
37. [Small Business Act of 1953 \(Public Law 85-536\)](http://www.sba.gov/regulations/sbaact/sbaact.html), <http://www.sba.gov/regulations/sbaact/sbaact.html>: The Act established the Small Business Administration. The Small Business Administration maintains and strengthens the nation's economy by establishing small businesses.
38. [Truth in Negotiations Act \(TINA\) \(10 U.S.C. § 2306a, 41 U.S.C. § 254b\)](http://www.es.northropgrumman.com/ourvalues/assets/TruthNegotiationsAct.pdf), <http://www.es.northropgrumman.com/ourvalues/assets/TruthNegotiationsAct.pdf>: The Act requires an offeror for a prime contract to be entered into using procedures other than sealed-bid procedures shall be required to submit cost or pricing data before the award of a contract in the case of a prime contract entered into after December 5, 1990, the price of the contract to the United States is expected to exceed \$500,000; and, in the case of a prime contract entered into on or before December 5, 1990, the price of the contract to the United States is expected to exceed \$100,000. This Act is referred to as TINA.
39. [Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 \(42 USC 4601\)](http://uscode.house.gov/download/pls/42C61.txt), <http://uscode.house.gov/download/pls/42C61.txt>: The Act requires federal agencies to provide relocation services and benefits to persons displaced as a result of federal lease construction projects.

Executive Orders

1. [Executive Order 11738](http://www.epa.gov/isdc/eo11738.htm), <http://www.epa.gov/isdc/eo11738.htm>: Providing for Administration of the Clean Air Act and the Federal Water Pollution Control Act with

respect to Federal Contracts, Grants, and Loans. The Order requires that each federal agency empowered to enter into contracts shall undertake such procurement in a manner which will result in effective enforcement of the Clean Air Act and the federal Water Pollution Control Act.

2. [Executive Order 11988 Floodplain Management and Protection of Wetlands](http://www.epa.gov/wetlands/regs/eo11988.html), <http://www.epa.gov/wetlands/regs/eo11988.html>: The Order precludes federal agencies from leasing space in buildings located within a 100-year floodplain.
3. [Executive Order 12072 Federal Space Management](http://www.gsa.gov/Portal/gsa/ep/contentView.do?contentType=GSA_BASIC&contentId=16907), http://www.gsa.gov/Portal/gsa/ep/contentView.do?contentType=GSA_BASIC&contentId=16907: The Order initiated Central Business Area (CBA) priority locating leased locations, designed to exert a positive social and economic influence on the areas in which facilities are to be located. This Order was implemented with USDA by a Memorandum of Understanding (MOU) between USDA and GSA on Location of Federal Facilities dated December 29, 1979. The CBA may also be referred to as the Central Business District (CBD).
4. [Executive Order 12411 Government Workspace Management](http://www.acq.osd.mil/dpap/specificpolicy/attachments/spacemangproced3-20070301.pdf), <http://www.acq.osd.mil/dpap/specificpolicy/attachments/spacemangproced3-20070301.pdf>: The Order established government-wide policies for the management of workspace and related furnishings. This is the basis for the GSA managed space utilization program.
5. [Executive Order 13006 Locating Federal Facilities on Historic Properties in Our Nation's Central Cities](http://www.gsa.gov/portal/content/100842), <http://www.gsa.gov/portal/content/100842>: The Order reaffirms the commitment set forth in EO 12027 and the Public Buildings Cooperative Use Act of 1976. (Public Law 94-541, 40 U.S.C. 601a). The Order requires that first consideration be given to locate in historic buildings and districts within central building areas. It directs federal agencies to remove regulatory barriers, review their policies and build new partnership with the goal of enhancing participation in the National Historic Preservation Program.
6. [Executive Order 13327 Federal Real Property Asset Management](http://www.gsa.gov/portal/content/101584), <http://www.gsa.gov/portal/content/101584>: The Order establishes a number of actions intended to promote efficient and economical use of national real property assets. The Order requires agencies establish a position of Senior Real Property Officer to ensure better organization, planning and accountability of property management. Further, the Order requires the development and implementation of asset management plan. This Order revokes EO12512 Federal Real Property Management - April 29, 1985.
7. [Executive Order 13423 Strengthening Federal Environmental, Energy, and Transportation Management](http://www.whitehouse.gov/omb/circulars/a11/current_year/energy.pdf), http://www.whitehouse.gov/omb/circulars/a11/current_year/energy.pdf: The Order sets forth energy and environmental management requirements such as reducing energy intensity, increasing the use of renewable energy, generating renewable energy, conserving water and energy efficient practices in operating and maintaining facilities, reducing the acquisition, use and disposal of toxics and hazardous chemical, recycling, electronics stewardship and operating federal. EO 13423 requires that Federal agencies

follow the five Guiding Principles for Federal Leadership in High Performance and Sustainable Buildings in constructing and renovating all Federal buildings. For buildings, the Order sets specific sustainability goals and requirements, as well as in acquiring goods and services. The Order supersedes all of the “Greening the Government” Order.

8. [Executive Order 13514 – Federal Leadership in Environmental, Energy, and Economic Performance](http://www.fedcenter.gov/Bookmarks/index.cfm?id=13641), <http://www.fedcenter.gov/Bookmarks/index.cfm?id=13641>: The Order sets forth efforts and strategies towards sustainability in the federal Government. The Executive Order builds on and expands the energy reduction and environmental requirements of Executive Order 13423 by making reductions of greenhouse gas emissions a priority of the federal government, and by requiring agencies to develop sustainability plans focused on cost-effective projects and programs. Could not eliminate yellow highlighting at No.47.

Code of Federal Regulations

1. [Federal Acquisition Regulation \(FAR\) \(48 CFR Chapter 1\)](http://www.access.gpo.gov/nara/cfr/waisidx_03/48cfrv1_03.html), http://www.access.gpo.gov/nara/cfr/waisidx_03/48cfrv1_03.html: The Federal Acquisition Regulation (FAR) became effective April 1, 1984 and is now the procurement regulation follow by most Federal agencies. This regulation does not specifically include contracting for leased space, but many of the general requirements have been interpreted by the General Services Administration Acquisition Regulations (GSAR).
2. [Federal Management Regulation \(FMR\) \(41 CFR Chapter 1020\)](http://www.access.gpo.gov/nara/cfr/waisidx_01/41cfrv3_01.html), http://www.access.gpo.gov/nara/cfr/waisidx_01/41cfrv3_01.html: The Federal Management Regulations (FMR) is the successor regulations to the Federal Property Management Regulation (FPMR). The FMR contains updated regulatory policies applicable to GSA and federal agencies that GSA has granted Delegation of Authority.
3. [General Services Administration Acquisition Regulation \(48 CFR Chapter 5\)](http://www.access.gpo.gov/nara/cfr/waisidx_02/48cfrv4_02.html), http://www.access.gpo.gov/nara/cfr/waisidx_02/48cfrv4_02.html The General Services Administration Acquisition Regulation (GSAR), was issued by the General Services Administration (GSA) effective April 1, 1984. It applies to all GSA contracts for supplies or services including construction through purchase or lease. Part 570 of the GSAR contains policies and procedures on the acquisition of leasehold interested in real property. Parts 501, 502, 503, 505, 533, 552, 553, and subparts 504.70, 509.4, 515.1, and 532.8 include policies and procedures which have general application to all contracts including leases of real property. Other GSAR provisions do not apply to lease of real property unless a specific cross-reference is made to the provisions in Part 501 and 570. Federal agencies which lease space under a delegation of authority from the Administrator of GSA are required to comply with the provisions of the GSAR.
 - a. [GSAR 570.2](https://www.acquisition.gov/Gsam/current/html/Part570.html), <https://www.acquisition.gov/Gsam/current/html/Part570.html>

- b. [GSAR 570.104](http://www.acquisition.gov/gsam/current/html/GSAMTOC570.html)
<http://www.acquisition.gov/gsam/current/html/GSAMTOC570.html>. and FAR
[6.302](http://www.acquisition.gov/gsam/current/html/GSAMTOC570.html)

Regulations

1. [Agriculture Property Management Regulations Location of USDA Facilities \(AGPMR 110-79\)](http://www.dm.usda.gov/pmd/directives.htm), <http://www.dm.usda.gov/pmd/directives.htm> The Agriculture Property Management Regulations (AGPMR) implements and supplements the Federal Management Regulations. AGPMR are managed and controlled by the Office of Procurement and Property Management (OPPM). The AGPMR consists of Subchapter A, General; Subchapter D, Public Buildings Space Subchapter E, Supply and Procurement; Subchapter G, Aviation, Transportation, and Motor Vehicles; Subchapter H, Utilization and Disposal; and Subchapter N, Property Management.
2. [Departmental Regulations \(DR\) and Secretary's Memorandum \(SM\)](http://www.dm.usda.gov/pmd/directives.htm), <http://www.dm.usda.gov/pmd/directives.htm> . Departmental Regulations (DR) are used to issue policies, procedures, guidance which have general applicability to employees and two or more USDA agencies, or staff offices of USDA
3. [Departmental Regulation Real Property Leasing Officer Warrant System \(DR 5100- 002\)](http://www.ocio.usda.gov/directives/doc/DR5100-002.pdf), <http://www.ocio.usda.gov/directives/doc/DR5100-002.pdf>.
4. [Departmental Regulation USDA Space Management Policy \(DR 1620-002\)](http://www.dm.usda.gov/pmd/directives.htm), <http://www.dm.usda.gov/pmd/directives.htm>, should be used.
5. [Departmental Regulation USDA Workplace Violence Prevention Program \(DR 4200-001\)](http://www.ocio.usda.gov/directives/doc/DR4200-001.htm) <http://www.ocio.usda.gov/directives/doc/DR4200-001.htm>. This Departmental Regulation establishes the policy of the Department of Agriculture (USDA) on the prevention of workplace violence.
6. [Federal Acquisition Regulation \(FAR\) 5.202](http://www.acquisition.gov/far/current/html/Subpart%205.2.html), <http://www.acquisition.gov/far/current/html/Subpart%205.2.html>: As required by the Small Business Act (15 U.S.C. 637(e)) and the Office of Federal Procurement Policy Act (41 U.S.C. 416), agencies must make notices of proposed contract actions available as specified in paragraph (b) of this section.
7. [Federal Acquisition Regulation \(FAR\) 6.302](http://farsite.hill.af.mil/reghtml/regs/far2afmcfars/fardfars/far/06.htm#P80_10698), http://farsite.hill.af.mil/reghtml/regs/far2afmcfars/fardfars/far/06.htm#P80_10698: The following statutory authorities (including applications and limitations) permit contracting without providing for full and open competition. Requirements for justifications to support the use of these authorities are in [6.303](http://www.acquisition.gov/far/current/html/Subpart%206.303.html).
8. [Federal Acquisition Regulation \(FAR\) 14.406-4](http://www.acquisition.gov/FAR/current/html/Subpart%2014.4.html#wp1090681), <http://www.acquisition.gov/FAR/current/html/Subpart%2014.4.html#wp1090681>

9. [Federal Acquisition Regulation \(FAR\) 15.804-2](http://www.dla.mil/j-3/j-336/DLAD/PART15.PDF), <http://www.dla.mil/j-3/j-336/DLAD/PART15.PDF>
10. [Federal Acquisition Regulation \(FAR\) 52.219-9](https://www.acquisition.gov/GSAM/current/html/Part519AppA.html), <https://www.acquisition.gov/GSAM/current/html/Part519AppA.html>
11. [Federal Management Regulation \(FMR\)](http://www.gsa.gov/portal/content/102955), <http://www.gsa.gov/portal/content/102955>: Federal policy on space requirements is established by the FMR.
12. [Federal Management Regulation \(FMR\) Bulletin 2008-B1](http://www.gsa.gov/graphics/ogp/FMR2008-B1.pdf), Delegation of Lease Acquisition Authority – Notification, Usage, Reporting Requirements for General Purpose, Categorical, and Special Purpose Space Delegation, <http://www.gsa.gov/graphics/ogp/FMR2008-B1.pdf>
13. [Federal Management Regulation \(FMR\) 102-72.10 Delegation of Authority](http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=41&PART=102-72&SECTION=5&YEAR=2001&TYPE=PDF), <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=41&PART=102-72&SECTION=5&YEAR=2001&TYPE=PDF>
14. [Federal Management Regulation \(FMR\) 102-73.140](http://www.gsa.gov/portal/ext/public/site/FMR/file/Part102-73.html/category/21859/#wp2016615), <http://www.gsa.gov/portal/ext/public/site/FMR/file/Part102-73.html/category/21859/#wp2016615>
15. [Federal Management Regulation \(FMR\) 102-73.60](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=db67ae9f14d99ff5b4288735321ea444&rgn=div8&view=text&node=41:3.1.1.3.21.2.259.4&idno=41), <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=db67ae9f14d99ff5b4288735321ea444&rgn=div8&view=text&node=41:3.1.1.3.21.2.259.4&idno=41>
16. [Federal Management Regulation \(FMR\) 102.73-70](http://www.gsa.gov/portal/ext/public/site/FMR/file/Part102-73.html/category/21859/#wp2016558), <http://www.gsa.gov/portal/ext/public/site/FMR/file/Part102-73.html/category/21859/#wp2016558>
17. [General Services Administration Acquisition Manual \(GSAM\)](https://www.acquisition.gov/comp/gsam/gsam.html), <https://www.acquisition.gov/comp/gsam/gsam.html>: The GSAM was issued by GSA, effective September 1, 1999. The manual consolidates the GSAR as well as internal agency acquisition policy. GSAR material is shaded. The shading allows users to distinguish and identify those parts text that are regulatory from those that apply internally to GSA. The shaded sections are those subject to section 22 of the Office of Federal Procurement Policy Act, as amended. (41 USC 418b).
18. [General Services Administration Acquisition Regulation \(GSAR\) 570.204-4](http://www.access.gpo.gov/nara/cfr/waisidx_98/48cfr570_98.html), http://www.access.gpo.gov/nara/cfr/waisidx_98/48cfr570_98.html
19. [Rules and Regulation Governing Conduct on Federal Property](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&rgn=div9&view=text&node=41:3.1.1.3.22.6.353.5.9&idno=41) is a requirement, <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&rgn=div9&view=text&node=41:3.1.1.3.22.6.353.5.9&idno=41>.

Forms

1. [ABAAS Leasing Checklist](http://www.gsa.gov/graphics/pbs/ABAAS_Leasing_Checklist_FINAL_R2C15-e_0Z5RDZ-i34K-pR.pdf),
http://www.gsa.gov/graphics/pbs/ABAAS_Leasing_Checklist_FINAL_R2C15-e_0Z5RDZ-i34K-pR.pdf
2. [Condition Survey Report](http://contacts.gsa.gov/webforms.nsf/0/EF9CA9662F94E0B585256AA2004A4089/$file/GSA%201204.pdf),
[http://contacts.gsa.gov/webforms.nsf/0/EF9CA9662F94E0B585256AA2004A4089/\\$file/GSA%201204.pdf](http://contacts.gsa.gov/webforms.nsf/0/EF9CA9662F94E0B585256AA2004A4089/$file/GSA%201204.pdf)
3. [General Services Administration \(GSA\) Form 1217 Lessor's Annual Cost Statement](http://contacts.gsa.gov/webforms.nsf/0/168C0838F0C58F6985256A2A0050DB18/$file/gs1217.pdf),
[http://contacts.gsa.gov/webforms.nsf/0/168C0838F0C58F6985256A2A0050DB18/\\$file/gs1217.pdf](http://contacts.gsa.gov/webforms.nsf/0/168C0838F0C58F6985256A2A0050DB18/$file/gs1217.pdf)
4. [General Services Administration \(GSA\) Form 1364 Proposal to Lease Space](http://contacts.gsa.gov/webforms.nsf/0/OCF34FBD025B6792862575920047416F/$file/gs1364instr.pdf),
[http://contacts.gsa.gov/webforms.nsf/0/OCF34FBD025B6792862575920047416F/\\$file/gs1364instr.pdf](http://contacts.gsa.gov/webforms.nsf/0/OCF34FBD025B6792862575920047416F/$file/gs1364instr.pdf)
5. [General Services Administration \(GSA\) Form 3516 Solicitation Provisions](http://contacts.gsa.gov/webforms.nsf/0/85BC8445FBADDB0A85256A2C0050BD3D/$file/gs3516.pdf),
[http://contacts.gsa.gov/webforms.nsf/0/85BC8445FBADDB0A85256A2C0050BD3D/\\$file/gs3516.pdf](http://contacts.gsa.gov/webforms.nsf/0/85BC8445FBADDB0A85256A2C0050BD3D/$file/gs3516.pdf)
6. [General Services Administration \(GSA\) Form 3517 General Clauses](http://contacts.gsa.gov/webforms.nsf/0/F101D63C517436F285256A2C0050F191/$file/GS3517.pdf),
[http://contacts.gsa.gov/webforms.nsf/0/F101D63C517436F285256A2C0050F191/\\$file/GS3517.pdf](http://contacts.gsa.gov/webforms.nsf/0/F101D63C517436F285256A2C0050F191/$file/GS3517.pdf)
7. [General Services Administration \(GSA\) Form 3518 Representations and Certifications](http://contacts.gsa.gov/webforms.nsf/0/0229458E3B14A6CC85256A2C00515A4F/$file/3518%20%20JAN%202007.pdf),
[http://contacts.gsa.gov/webforms.nsf/0/0229458E3B14A6CC85256A2C00515A4F/\\$file/3518%20%20JAN%202007.pdf](http://contacts.gsa.gov/webforms.nsf/0/0229458E3B14A6CC85256A2C00515A4F/$file/3518%20%20JAN%202007.pdf)
8. [General Services Administration \(GSA\) Form 3626 or 3626A](http://contacts.gsa.gov/webforms.nsf/0/FABA89FA6AC13F7185256C0F0045ED04/$file/gs3626_04_09.pdf),
[http://contacts.gsa.gov/webforms.nsf/0/FABA89FA6AC13F7185256C0F0045ED04/\\$file/gs3626_04_09.pdf](http://contacts.gsa.gov/webforms.nsf/0/FABA89FA6AC13F7185256C0F0045ED04/$file/gs3626_04_09.pdf)
9. [General Services Administration \(GSA\) Form 3627 Lease Market Survey](http://contacts.gsa.gov/webforms.nsf/0/1FF70AA1C649B42485256A2C00539CE8/$file/GSA%203627.pdf),
[http://contacts.gsa.gov/webforms.nsf/0/1FF70AA1C649B42485256A2C00539CE8/\\$file/GSA%203627.pdf](http://contacts.gsa.gov/webforms.nsf/0/1FF70AA1C649B42485256A2C00539CE8/$file/GSA%203627.pdf): Tool that allows the RPLO to make intelligent and effective pricing decisions. A poor market survey positions the RPLO at a disadvantage and increases the difficulties in the leasing process.
10. [Real Estate Compliance Checklist](http://www.gsa.gov/portal/category/21117), <http://www.gsa.gov/portal/category/21117>: A tool for RPLOs to ensure and comply with specific historic property leasing laws, executive orders, regulations and policies.

11. Solicitation for Offers (SFO),
[http://contacts.gsa.gov/webforms.nsf/0/16A3F7C2E0044E4485256F4D00628BE3/\\$file/SFO_09_09.pdf](http://contacts.gsa.gov/webforms.nsf/0/16A3F7C2E0044E4485256F4D00628BE3/$file/SFO_09_09.pdf)
12. Standard Form 81 (SF 81),
[http://contacts.gsa.gov/webforms.nsf/0/FB702F0B69C02BC385256A3E005EF9EE/\\$file/SF%2081.pdf](http://contacts.gsa.gov/webforms.nsf/0/FB702F0B69C02BC385256A3E005EF9EE/$file/SF%2081.pdf)
13. Standard Form 2 (SF 2),
[http://contacts.gsa.gov/webforms.nsf/0/57A58CDEC8239E0485256BFA004F65F3/\\$file/SF%202.pdf](http://contacts.gsa.gov/webforms.nsf/0/57A58CDEC8239E0485256BFA004F65F3/$file/SF%202.pdf)

Other

1. Accessibility Board, www.access-board.gov
2. Advisory Council on Historic Properties, <http://www.achp.gov/>
3. Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities
<http://www.access-board.gov/adaag/html/adaag.htm>: This document contains scoping and technical requirements for accessibility to buildings and facilities by individuals with disabilities under the Americans with Disabilities Act (ADA) of 1990. These scoping and technical requirements are to be applied during the design, construction, and alteration of buildings and facilities covered by titles II and III of the ADA to the extent required by regulations issued by Federal agencies, including the Department of Justice and the Department of Transportation, under the ADA.
4. Annual Prospectus Levels, <http://www.gsa.gov/portal/content/101522>
5. General Services Administration (GSA) Customer Guide to Real Property,
<http://www.treas.gov/offices/management/asset-management/guide.pdf>
6. Good Practices Library, <http://www.gsa.gov/portal/content/102112>
7. Federal Business Opportunities, <https://www.fbo.gov/>
8. Homeland Security Presidential Directives (HSPD) 7, 9, 12, and 20
http://www.dhs.gov/xabout/laws/editorial_0607.shtm
9. Interagency Security Committee (ISC) Facility Security Level Determinations for Federal Facilities, Physical Security Criteria for Federal Facilities, Design Basis Threat standards, ISC Facility Security Committees
http://www.dhs.gov/files/committees/gc_1194539370126.shtm

10. Lease Action Summary,
[http://contacts.gsa.gov/webforms.nsf/0/73E9566042DC7B9685256A2C0053B922/\\$file/g3628.pdf](http://contacts.gsa.gov/webforms.nsf/0/73E9566042DC7B9685256A2C0053B922/$file/g3628.pdf)
11. LEED, <http://www.usgbc.org/>
12. National Fire Protection Association (NFPA) 101: Life Safety Code,
<http://www.nfpa.org/index.asp?cookie%5Ftest=1>
13. PVA model, <http://www.gsa.gov/portal/content/101883>
14. Realty Service Letters (RSLs), <http://www.gsa.gov/portal/content/104986>
15. Seismic Safety for Existing Federally Owned or Leased Buildings,
<http://www.nehrp.gov/pdf/nistir6762.pdf>
16. SLAT, <http://www.acquisition.gov/gsam/current/html/Part570.html#wp1854930>
17. USDA Risk Based Methodology, <http://www.ocio.usda.gov/directives/doc/DM3540-000.htm>

APPENDIX D

COST OF ESCALATION WHEN PVA IS NOT USED

Offer A provides for \$12 PSF, per annum, with a base cost of services of \$3.00 PSF with the Government providing electricity for lights and office machines/equipment estimated at \$0.30 PSF.

Offer B provides for an \$11.95 PSF, fully serviced, with a cost of services at \$3.50 PSF.

The rate of inflation for the previous year was four percent. Therefore, for instructional purposes four percent annual compound interest rate is being used.

OFFER A

Year	Escalation	Rate	Interest Compounded	Rate with Interest
1	1 st	\$3.00	0.0000	\$ 3.00
2	2 nd	\$3.00	1.0400	\$ 3.12
3	3 rd	\$3.00	1.0816	\$ 3.24
4	4 th	\$3.00	1.1249	\$ 3.37
5	5 th	\$3.00	1.1699	\$ 3.51

\$16.247 which is rounded to \$16.25 PSF

\$16.25 PSF is then divided by five years which results into \$0.25 as an average estimated, escalated annualized PSF cost of services provided by the lessor over the initial term. The rate represents a \$0.25 PSF increase from the base of \$3.00 PSF.

OFFER B

Year	Escalation	Rate	Interest Compounded	Rate with Interest
1	1 st	\$0.30	0.0000	\$ 0.3000
2	2 nd	\$0.30	1.0400	\$ 0.3120
3	3 rd	\$0.30	1.0816	\$ 0.3245
4	4 th	\$0.30	1.1249	\$ 0.3375
5	5 th	\$0.30	1.1699	\$ 0.3510

\$1.625 which is rounded to \$1.63

\$1.63 PSF is then divided by five which results into \$0.33 as the average estimated PSF cost of Government provided services. The rate represents a \$0.03 PSF increase from the estimated base cost of Government provided services. The two figures calculated above are inserted in the

abstract of offers by the RPLO and added to the rental to determine overall cost to the Government.

OFFER A

Initial Rate	Services – Increase From Base	Cost for Electricity for Office Machines/Equipment	Increase From Base of Gov't Provided Services	Resulting Rate
\$12.00	0.25	0.30	0.03	\$12.58

OFFER B

Year	Escalation	Rate	Inflation Rate	Resulting Rate
1	0	\$ 3.50	0.0000	\$ 3.50
2	1 st	\$ 3.50	1.0400	\$ 3.64
3	2 nd	\$ 3.50	1.0816	\$ 3.79
4	3 rd	\$ 3.50	1.1249	\$ 3.94
5	4 th	\$ 3.50	1.1699	\$ 4.09

\$18.96

\$18.96 PSF is then divided by five years which results into \$3.79 as the average estimate, escalated PSF cost of all services provided by the lessor over the initial term. The rate represents a \$0.29 PSF increase from the base. The resulting rate is then inserted by the RPLO into the abstract and added to the rental to determine the overall cost to the Government.

APPENDIX E

SAMPLE REVISED PRICE NEGOTIATION OBJECTIVES

OPERATION AND MAINTENANCE
VARIOUS BUILDING IN MARYLAND
Number _____

BACKGROUND:

The USDA Estimator (_____) and the USDA Customer Service Representative (_____) determined that it was not feasible to require a Chief Engineer under this requirement. As a result of that discussion, Amendment 0003 was issued on May 21, 2004 changing the requirement to a 3rd Class Engineer.

Mr. _____ was informed that he must pay the current wages. Mr. _____ said he was aware that they had to comply with the current wages.

SUMMARY OF PRE-NEGOTIATION REVIEW

MAY 25, 2004 PROPOSED PRICES:

Contractor: \$ 206,400.00 (Base Year)
 \$1,032,000.00 (Base Year and all Options)

Reimbursable: O&M	\$49.60 per hour
Repairs	\$39.60 per hour
Repairs	\$39.60 per hour
Misc Work	\$39.60 per hour

The proposal did not include a summary sheet. The contractor was requested to submit this information. On June 16, 2004, the contractor submitted the summary sheet together with a revised proposal as shown below. There was no indication why the proposal was revised.

JUNE 16, 2004 PROPOSED PRICES:

Contractor: \$ 204,804.00 (Base Year)
 \$1,024,020.00 (Base Year and all Options)

Reimbursable: O&M	\$49.60 per hour
Repairs	\$39.60 per hour
Repairs	\$39.60 per hour
Misc Work	\$39.60 per hour

NOTE: The contractor's spreadsheet submitted with revised proposal is \$204,809.03.

GOVERNMENT ESTIMATE

The initial Government estimate of \$195,273.00 for the base year (\$976,365.00 - Base and all Options) did not include the wages from the wage determination, which would have given a more realistic figure. On May 14, 2004 a revised estimate along with the reimbursables was submitted as follows:

Government: \$221,543.00 (Base Year)
 \$1,107,715.00 (Base Year and all Options)

Reimbursables:

O&M	\$51.07 per hour
Repairs	\$38.95 per hour
Repairs	\$51.07 per hour
Misc. Work	\$38.95 per hour

PRICE ANALYSIS

_____ price of \$204,804.00 is \$16,739.00, or 8% lower than the Government's price of \$221,543.00.

_____ O&M price of \$49.60 per hour is 3% lower than the Government's price of \$51.07.

_____ Repairs price of \$39.60 per hour is 2% higher than the Government's price of \$38.95.

_____ Repairs price of \$39.60 per hour is 22% lower than the Government's price of \$51.07.

_____ Miscellaneous price of \$39.60 per hour is 2% higher than the Government's price of \$38.95.

(See Conclusion)

GOVERNMENT POSITION AND GOALS IN NEGOTIATIONS - PRICE FACTORS

Although the offer's price is now 8% lower than the Government estimate, there are cost items that need clarification for both the Government and the contractor.

The Government's position was to achieve a fair and reasonable price for services provided.

1. LABOR

a. Watch Engineer Day

Contractor: \$27.68 per hour

Government: \$25.18 per hour

Remarks: The wage determination has a rate of \$25.18 per hour for an Engineer. However, it does not include a wage for a "watch engineer". The rate for the watch engineer is 10% higher than the engineer. Ask the contractor the basis for the \$27.68 per hour.

This will be an item for discussion.

NOTE: The wage determination under this requirement includes wages from a collective bargaining agreement. The contractor used the term watch engineer, while the government estimate used Engineer.

b. Cover Engineer (Maintenance Mechanic)

Contractor: \$27.68 per hour

Government: \$24.24 per hour

The contractor used an Engineer where as the Government used a maintenance mechanic's position. Ask the contractor the purpose of this position.

The Government only used two classifications in the estimate, an engineer.

This will be an item for discussion.

c. On Call

Contractor: \$10.00 per hour

Government: See Remarks

Remarks: The wage determination states that "Effective 11/1/96 employees required to be "on call" and carry a cellular phone home shall receive two hundred dollars (\$200.00) each week that they are required to be on call." ($\$200 \times 52 \text{ wk} = \$10,400$). The contractor's hourly rate of \$10.00 is computed as follows: $\$200/20 \text{ hours} = \10.00 (Part-time employee listed at .5 = 1,040 hours, which is half of 2,080 hours)

The government only used two classifications in the estimate, an engineer and mechanic.

This will not be an item for discussion.

2. CONTRACT HOURS

Contractor: 3952

Government: 3712

Remarks: The contractor has 240 hours more than the Government. They will be asked to explain what this figure entails. See comment under Classification of Employees.

NOTE: The estimator did not include hours to cover paid vacation for the employees. Ask the estimator to review.

3. NUMBER OF EMPLOYEES

Contractor: 1.9 employees

Government: 2 employees

Remarks: The contractor has proposed 1.9 on his proposal. The figures the contractor used consist of a Chief Engineer (1), a Cover Engineer (.03) and an On Call employee (.05).

This will not be a topic for discussion

4. CLASSIFICATION OF EMPLOYEES

Remarks: The contractor used three different categories of employees consisting of a Chief Engineer (1), a Cover Engineer (.03) and an On Call employee (.05). What is the purpose for the three different categories?

This will be an item for discussion.

NOTE: This may be why contract hours are higher.

5. FRINGE BENEFITS

a. Workmen's Comp:

<u>Contractor:</u>	0.0765%
Watch Eng.	\$4,404.44
Cover Eng.	\$1,761.78
On Call	\$795.60

<u>Government:</u>	See Remarks
	\$11,535

Remarks: The Government combined fringes a. through d. at 11% for this fringe. The contractor will be asked why his Social Security and Workmen's compensation are the same.

This will be an item for discussion.

b. Social Security:

<u>Contractor:</u>	0.0765%	<u>Government:</u>	See Remarks
Watch Eng.	\$4,404.44		
Cover Eng.	\$1,761.78		
On Call	\$795.60		

Remarks: The Government combined fringes a. through d. at 11% for this fringe. The contractor will be asked why his Social Security and Workmen's compensation are the same.

This will be an item for discussion.

c. Federal Unemployment Insurance:

<u>Contractor:</u>	0.048%	<u>Government:</u>	See Remarks
Watch Eng.	\$384.00		
Cover Eng.	\$153.60		
On Call	\$192.00		

Remarks: The Government combined fringes a. through d. at 11% for this fringe.

This will be an item for discussion.

d. State Unemployment Insurance:

<u>Contractor:</u>	0.012%	<u>Government:</u>	See Remarks
Watch Eng.	\$96.00		
Cover Eng.	\$38.40		
On Call	\$48.00		

Remarks: The Government has a combined fringes a. thru d. at 11% for this fringe.

This will be an item for discussion.

e. Health & Welfare:

<u>Contractor:</u>		<u>Government:</u>	
Watch Eng.	\$7,620.00		\$13,586.00
Cover Eng.	\$3,048.00		

On Call \$3,810.00

Remarks: The contractor will be asked how he calculated his health and welfare.

This will be an item for discussion.

f. Pension:

<u>Contractor:</u>	\$4.84 per hour	<u>Government:</u>	\$4.84 per hour
Watch Eng.	\$10,067.20		\$17,966.00
Cover Eng.	\$4,026.88		
On Call	\$5,033.60		

Remarks: The contractor will be asked why he used \$4.84 instead of the rate listed in the wage determination of \$4.63 per hour.

This will be an item for discussion.

g. Sick:

<u>Contractor:</u>		<u>Government:</u>	See Remarks
Watch Eng.	\$0		

Remarks: The contractor will be asked to explain why the sick costs, vacation costs and holiday costs were omitted from the proposal. The government costs consist of sick, vacation and holidays.

This will be an item for discussion.

h. Vacation:

<u>Contractor:</u>		<u>Government:</u>	See Remarks
Watch Eng.	\$0		

Remarks: The contractor will be asked to explain why the sick costs, vacation costs and holiday costs were omitted from the proposal. The government costs consist of sick, vacation and holidays.

This will be an item for discussion.

i. Holidays:

<u>Contractor:</u>		<u>Government:</u>	See Remarks
Chief Eng.	\$0		

Remarks: The contractor will be asked to explain why the sick costs, vacation costs and holiday costs were omitted from the proposal. The government costs consist of sick, vacation and holidays.

This will be an item for discussion.

6. **MATERIALS/EQUIPMENT**

Contractor: \$36,800.00 per year
(Supply/Trash)

Government: \$14,236.00 per year
Supplies \$7,118.00
Equip. \$7,118.00

Remarks: The contractor's summary has \$36,800.00 for this item. However, under other supporting documents the total for this item is \$36,080.00. This will be brought to the contractor's attention for correction.

The contractor's summary indicates that this is for supplies and trash. Ask them to explain and breakout the cost to show these items separately. However, the supporting document indicates that this is actually for materials, supplies and equipment. Request that the contractor confirm.

G&A and Profit for Materials

The contractor included a G&A and Profit rate in his cost breakdown for this item of 15.2%. The contractor also has included G&A and Profit on the entire proposal. This looks like double dipping.

The government estimator will be contacted to verify if the items listed are appropriate for this contract.

This will be an item for discussion. (There was no change in this cost.)

NOTE: The contractor's proposal remained the same.

7. **G&A**

Contractor: \$13,944.55 or 10%

Government: 10%

Remarks: The contractor increased their G&A from 4% to 10%. This will be a topic for discussion. Why was there an increase from your original submission?

8. **PROFIT**

Contractor: \$15,339.00 or 10%

Government: 10%

Remarks: The rate for profit remained the same.

This will not be an item for discussion.

9. REIMBURSABLE RATES

- a. Reimbursable Operation and Maintenance of Mechanical Equipment during other than occupant work hours. (Reg. Rate Extra)

Contractor: \$49.60 per hour Government: \$51.07 per hour

- b. Reimbursable repairs during Occupant work hours

Contractor: \$39.40 per hour Government: \$38.95 per hour

- c. Reimbursable Repairs at other than occupant work hours

Contractor: \$39.60 per hour Government: \$51.07 per hour

- d. Miscellaneous Work

Contractor: \$39.60 per hour Government: \$38.95 per hour

These items will not be a topic for discussion.

CONCLUSION:

Although the contractor's proposal is lower than the Government estimate, the contractor failed to include costs for fringes, which will result in a higher G&A and Profit costs.

Based on the above analysis, the Government's position will be to conduct discussions in order to ascertain a reasonable price under this procurement.

Real Property Specialist

Date

Real Property Leasing Officer

Date